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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

H.R. 5229

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1991, AND FOR OTHER PURPOSES

PART 1 (Pages 1-624)

Department of Transportation
National Railroad Passenger Corporation (Amtrak)
Washington Metropolitan Area Transit Authority

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, MARCH 1, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Frank R. Lautenberg (chairman) presiding.

Present: Senators Lautenberg, Harkin, D'Amato, Kasten, Domenici, Grassley, and Adams.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF HON. SAMUEL K. SKINNER, SECRETARY OF TRANSPORTATION

OPENING REMARKS

Senator LAUTENBERG. Good morning. We call this hearing of the Subcommittee on Transportation of the Appropriation Committee to order and welcome our distinguished Secretary of Transportation, Mr. Skinner, on his second appearance before the subcommittee.

It's our first hearing in this calendar year as we prepare for budget and appropriations considerations, and we are pleased to have the Secretary here. In that gear, I would have to say, Mr. Secretary, I have enjoyed our work together. We've spent time on interesting worthwhile projects, and we'll have a chance today to discuss our respective views on these projects, and I'm assured that I'll have your full agreement with my recommendations.

This may be the first transportation budget fully developed by the Bush administration. It does, unfortunately, resemble those of the past in that it leaves out Amtrak funding and calls for severe reductions for mass transit. It may surprise all of you here to know that, coming from New Jersey, I have a deep interest in mass transit and Amtrak. Still, I'm encouraged that the budget does call for increased spending in three critical areas where I believe the United States can and should be a leader: Intelligent highway vehicle research; magnetic levitation research; and the computerization of the management of our airspace.

It's these types of initiatives that are important if we as a country are to remain a leader in transportation, and I question whether the increases proposed are enough, given the need for us to maintain and enhance our competitive edge. Setting aside the greater issues of war and peace and the Nation's financial health, I believe that solving our transportation problems will be one of the great challenges that we face in the next decade.

I'm disappointed that we meet today without the benefit of having the Secretary's National Transportation Policy Program. I had hoped that that policy statement would have been released before our hearing so questions could have been asked in relation to that program. I know a lot of work has gone into its development, and I know that it's one of the Secretary's highest priorities. He declared that when he assumed this position. I'm told, Mr. Secretary, that that will be out next week, March 8.

Secretary Skinner. Next week.

Senator Lautenberg. We look forward to receiving that. Perhaps we'll get together again and discuss it.

Last year I commended your effort at developing a national policy and one that looks at all modes of transportation and recognizes that each is only a part of the bigger system. Though we don't have the actual policy before us, you have on a number of occasions enunciated some of the problems that guided the development of that policy and, frankly, I'm concerned about a couple of points.

First you talk about greater local responsibility, but does this mean more local decisionmaking about where to spend the resources, or does it simply mean the Federal Government is abdicating its responsibilities and passing the buck to State and local entities?

Second, does the increased reliance on user fees—which sounds like taxes, but I guess it's in the eyes of the beholder—suggest that the administration is so reluctant to suggest increased taxes that it wants them raised everywhere but at the Federal level?

I raise these points because there is a need for a strong Federal presence in transportation. It's our transportation system that brings this country together, that allows our commerce to prosper and our tourism to flourish. It's our transportation that will have a great impact on our overall economic well-being, our mobility, and not least of all, our environment. These benefits don't stop at each State's borders; our successes and failure don't recognize State boundaries.

You and I know, Mr. Secretary, that every time someone uses mass transit, it means one less car on our congested highways and less automobile exhaust pollution in our air. Every time someone uses Amtrak, especially on the east coast, it means less demand on our already congested highways and airspace. And every time, through technology and planning, we make our cars and highways more efficient, we reduce our demand for foreign oil, reduce congestion and travel time and lessen the demand for building new highways that more and more encroach on our wetlands, our farms, and neighborhoods.

At the same time, we've got to insure the mobility of our citizens and their commerce because, very simply, mobility means freedom, economic opportunity, and prosperity.

I intend to make sure we strike a balance among the various modes funded by this subcommittee. I intend to find the funding necessary for the Coast Guard to continue their fine work in search and rescue, environmental protection, and marine safety, while we at the same time give them sufficient resources to pursue the war on drugs.

The FAA needs additional resources to hire more safety inspectors, air traffic controllers, and security personnel and to continue uninterrupted its modernization of our national airspace with new radar and communication equipment, and I intend to help in those areas.

In the highway area, there is a tremendous backlog of deficient bridges that need repair and replacement. Funding has got to be found not only for existing roads but to address the new commuting patterns to relieve congestion and allow our citizens to enjoy a good transportation system.

We'll continue to provide the necessary resources in the areas of pipeline safety and the transportation of hazardous materials to protect our communities from the threat of environmental disaster.

Finally, we need to help our cities fight congestion and pollution with clean, safe, and efficient transit systems.

Following the statements of my colleagues, the distinguished Republican Senator from New York, my friend Senator D'Amato and our colleague Senator Kasten, who will be making their statements, and following your statement, Mr. Secretary, we'll get into the details of the budget requests through questions and answers.

I would now like to call on Senator D'Amato.

STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Thank you. I join you and the rest of our subcommittee in welcoming Secretary Skinner this morning. I would like to recognize Secretary Skinner and his hands-on approach to transportation policy issues, working hard to provide a national transportation policy that will be released in the near future. He has also responded quickly to transportation crises caused by earthquakes, hurricanes, or labor strikes meeting each new issue with vigor. We agree on a broad array of transportation issues and I salute the Secretary for the energy and intelligence that he has brought to this post.

FISCAL YEAR 1991 BUDGET REQUEST

The fiscal 1991 budget for the Department of Transportation includes a cut near $1.2 billion, most of this from Amtrak, $605 million, and transit operating aid for cities of over 1 million in population. Obviously I have interest and connection with that.

As in the past, I don't believe that the subcommittee will go along with killing Amtrak. I don't think the Secretary really wants us to do that or make huge cuts in transit aid. Amtrak has been tremendously successful in reducing its dependence on Federal operating subsidies. That subsidy declined 33 percent from $910 million to $605 million in 1990. Were it so in other departments, in other areas, what an example of how we should and can do things.

What Amtrak needs now is an infusion of capital funds. I recognize the frustration and I know from the Secretary's own distinguished career as a hands-on manager, that the question is: Where do we get these funds? We need capital funds so they can provide equipment to provide the increased levels of service desired by the public.

Amtrak carries 36 percent of the 11,600 daily passengers between New York City and Washington, DC. Let's take a picture of what takes place without Amtrak. Sixty to seventy air flights a day would have to be added in order to bring those people into the New York metropolitan area. Sixty to seventy flights. When we talk about the environment and problems at our airports today that simply would not be an alternative.

Federal transit operating aid is too important to large cities. Even though it plays a lesser role for smaller areas, it seems ironic to punish those areas by deleting this component of their budget. The city of Buffalo would lose $6 million and that would result in a 40- to 50-cent fare increase. New York City would lose $110 million and that would result in a fare increase of between 5 to 10 cents.

We are talking about getting people out of automobiles, saving the environment, mass transit. I don't have to champion that cause in front of the Secretary. He understands. He knows how important and vital a role it is, particularly in our urban centers and particularly in moving large numbers of people from our suburban areas into our urban areas.

The budget seems to call for a $482 million increase in the Coast Guard funding, but the Department expects this committee to fund the Coast Guard without aid from the Department of Defense. Senator Lautenberg has performed a major task in seeing to it that there was funding that wouldn't have been, which would have put us in dire straits, by arranging with the Appropriations Committee and with the chairman of the Defense Appropriation Committee to see that the Defense Department picked up those costs, $650 million.

This year that impact is a loss of $162 million. Again, when we talk about the Coast Guard and the need to keep our waterways safe, the need to undertake the pollution efforts that they've been charged with, the need to work in a coordinated way in drug interdiction, it just represents something that goes beyond. So we are going to have some difficulties and some problems.

We are going to look forward to the Secretary's transportation program overall. We face this every year. We faced it last year and the year before, the old question of robbing Peter to pay Paul and in some cases threatening to kill Peter or Paul at the expense of one or the other.

I might say, Mr. Secretary, that we've experienced another oilspill in New York on February 28, just 2 days ago. About 24,000 gallons of No. 6 heating oil was spilled into the waterways between our States of New Jersey and Staten Island. I don't think, Mr. Chairman, you claim Staten Island yet.

Senator LAUTENBERG. No; we leave the West Bank to the negotiators.

Senator D'AMATO. This is a serious problem. We understand that the ship out of Bayonne had a hole of 12 to 6 inches above the water. The barge is owned by Eckloff of Staten Island.

I wonder if you can touch on what actions the Coast Guard has taken in terms of inspecting these tanker barges prior to any accidents. Is that an area that we can do more in? It seems to me that inspections may be necessary in order to prevent some of these accidents. We get there after the accident. What can we do?

I thank the chairman. Again, I want to commend the chairman of our subcommittee for his stewardship and say to you it's been a pleasure working with you.

Senator LAUTENBERG. Thank you, Senator D'Amato. Our colleague, Senator Kasten, has a brief remark.

STATEMENT OF SENATOR KASTEN

Senator KASTEN. Mr. Chairman, first of all, thank you. And, Mr. Secretary, you're doing a wonderful job and you're doing the work in terms of consulting with the Congress. I want to congratulate you on the job you're doing.

Who would have known a year ago that you would have been faced with a number of these unusual occurrences from hurricanes to oilspills to a number of other things that you've worked on. There are a number of increases in this budget and they're important.

I think it's also important to recognize that in certain cases we on this committee are going to have to do some work. As the chairman noted, the administration has once again proposed the elimination of all Amtrak subsidies and also a 25-percent decrease in Federal transit funding. We've got the job of restoring those programs, and I believe Congress will restore the programs. We've got to provide for the needs of other functions within the budget as the chairman and ranking member have both pointed out.

With special mention of Amtrak, it seems to me that you and Graham Claytor and this committee are going to have to get together. He has the goal of an Amtrak by the year 2000 that is going to be unsubsidized. If we are going to get from here to the year 2000 with an unsubsidized Amtrak, at one point we are going to have to help them with some capital needs. Whether we do it this year or next year and how we fund this has to be figured out. Graham Claytor is running a heck of a good railroad in my opinion, and he's a wonderful individual; but we've got to help him get to where he's trying to go and that means capital needs for Amtrak, whether it's this year or in a budget to follow.

The increase of $1.1 billion for aviation to a level of $8.3 billion involves an increase in the ticket tax and 85 percent funding for FAA from the trust fund. I, too, want to see the trust fund reduced, but we've got to be looking at the trust fund for capital needs beyond what the FAA is doing now.

In the highway area we've got massive infrastructure needs and yet we see a reduction over last year's level. I'm disappointed at the continuing buildup of the highway trust fund. We'll be up another $11.6 billion in fiscal year 1991. I'm not sure when this collision is going to occur, but we are about, I believe, at the end of our string in terms of the highway and airport trust funds. Whether it starts to get involved in the Social Security trust fund debate or whether it's going to be the year when we in Congress jump in and start to use these trust funds, it's going to happen. I don't think it's likely that we are going to take Social Security off the budget and start to use that trust fund and not impact on the highway and airport trust funds. I hope it happens sooner rather than later, frankly, because this trust fund buildup is a continuing question that the American public is asking us.

Needless to say, I respect your position in this budget proposal, Mr. Secretary; however, Mr. Chairman, I look forward to working with you as we put together a bill that recognizes the political realities and funding priorities of Congress.

Senator LAUTENBERG. Thank you very much, Senator Kasten.

Now, Mr. Secretary, we invite you to give your statement, and then we'll have a chance to talk about some of the problems and opportunities we see.

STATEMENT OF SECRETARY SKINNER

Secretary SKINNER. Thank you, Mr. Chairman, Senators D'Amato and Kasten. I would ask that my entire opening statement be made part of the record.

Senator LAUTENBERG. Without objection.

Secretary SKINNER. That would allow more time for questions. I would summarize that, as you and your staffs have already perceived, this budget does increase emphasis on safety, infrastructure, and research and development. We also propose, through the implementation of passenger facility charges and other user fees, increased reliance on State and local user fee concepts. During the question period, I'm sure I'll get some questions regarding that.

We ask in the fiscal year 1991 budget that the Congress approve $26.6 billion in appropriations and obligation limits. This is 8.9 percent above the request for fiscal year 1990 and, as the committee has already pointed out, it calls for increases in the Coast Guard, the FAA and a number of the other agencies.

We call for $1.6 billion in direct safety programs. We've also asked that aviation security specialists be increased by 24 percent. This is an area that I know Senator Lautenberg is familiar with after his return from Europe. It is a problem that has been presented to this Department and needs to be addressed. And we'll discuss in the question and answer period some of the things we have done as well as some of the things we are doing.

I've been asked by reporters many times what was the most perplexing challenge that I have as Secretary of Transportation. Without exception, my answer is that we have not been able, as hard as we are pushing, to move as fast as I would like to make the international aviation system, that affects this country, the safest in the world. I believe it is safe but we know there are a number of things that must be done. That is a top priority that I share with the members of the committee.

We are proposing a 10-percent increase over fiscal year 1990 to support the Department's drug enforcement efforts. We have $390 million for research and development; a growth of 17 percent. That is an indication of this administration's dedication to increasing the amount of money that's invested in transportation research.

PREPARED STATEMENT

Finally, we've asked for user fees to finance $20.7 billion or 78 percent of the Department's budget. That would be up from 68 percent in fiscal year 1990. I won't go through all of the Department's individual budgets, other than to say there is substantial movement upward in several, and several have areas where they can better maximize their funds. So with that in mind, and recognizing my entire statement has been incorporated as part of the record, I would be glad to entertain any questions.

[The statement follows:]

STATEMENT OF SAMUEL K. SKINNER

Mr. Chairman and members of the Committee, I am pleased to appear before you to discuss the Department's budget request for fiscal year 1991. Before we talk about the budget, I want to tell you how much we have appreciated the care and commitment you have given to issues of this Department and to the quality of transportation in the Nation. We look forward to continuing this spirit of cooperation in the year ahead.

Transportation plays a vital role in advancing our country's goals for economic growth, global competitiveness, national security and improved quality of life. To support these goals, this country must confront a range of transportation needs: maintaining and replacing an aging infrastructure; providing sufficient capacity to deal with congestion both in the air and on the ground; ensuring a safe, reliable and energy efficient system that is also sensitive to environmental concerns; responding to the travel needs of individuals and businesses and ensuring a cost-efficient system. President Bush has stated, such needs require us to invest now to improve the future as well as current conditions.

Last year I testified before this Committee on the importance of a national transportation strategy to help us address these transportation needs. We will soon unveil our policy in detail. However, this budget, with its emphasis on safety, infrastructure, research and development, increasing the State and local financial role through such means as passenger facility charges, and increased reliance on user fee financing, is consistent with our objectives in developing a national transportation strategy.

The FY 1991 budget for the Department asks this Committee to approve $26.6 billion in appropriations and obligation limitations. As the Administration's first full budget proposal, it lays the groundwork for improving the transportation infrastructure and pays particular attention to the resources needed for critical safety programs and for effective, efficient management of our responsibilities.

Our request of $26.6 billion is 8.9 percent above the President's Budget request for FY 1990. Compared to the enacted level for FY 1990, it is slightly below; a 1.2 percent reduction after excluding $1 billion in emergency relief funds enacted in FY 1990.

Compared to the enacted FY 1990 level, the budget includes areas of significant increase in each mode, but especially for the Federal Aviation Administration (FAA) the U.S. Coast Guard (CG) the National Highway Traffic Safety Administration (NHTSA) and the Federal Railroad Administration (FRA). The areas of major reduction from FY 1990 enacted levels—transit operating assistance to large urban areas, Amtrak and related railroad subsidies and highway demonstration projects—are areas where the Executive Branch has consistently sought to reduce or eliminate Federal involvement and to strengthen local or private financial responsibility.

Before I highlight individual modal requests, let me summarize the major themes of the budget.

Safety.—We are requesting $1.6 billion for direct safety programs, an eight percent increase over the FY 1990 enacted level, needed to carry out the Department's responsibilities to ensure a safe transportation system. This includes inspections, search and rescue, and safety grants to States. This also includes aviation security where we have proposed a 24 percent increase in security specialists.

Infrastructure.—Our request includes $18 billion, or 68 percent of the Department's budget, for programs directly supporting capital investments in highway, transit and aviation infrastructure. Such investments are needed to maintain conditions as well as to expand capacity. This includes $4 billion for aviation infrastructure—a 27 percent increase over FY 1990. Over the next five years, we propose a 78 percent increase in funding for aviation facilities and infrastructure compared to the past five years.

In addition to this direct Federal spending, we are proposing to allow airports to levy passenger facility charges which will generate additional funds for aviation infrastructure. In this vein, we are seeking the advice of a select committee which the committee directed us to establish.

Drug Enforcement.—We are proposing $776 million, a ten percent increase over FY 1990, to support the Department's drug enforcement activities, including $731 million to support the Coast Guard's role.

Research and Development.—Our request includes $390 million for research and development programs, a growth of 17 percent to prepare us for the future and to help make transportation industries even more competitive. Our request covers such critical areas as further testing of explosive detection equipment, assessing the safety issues of magnetic levitation and high speed rail systems and promoting intelligent vehicle-highway technology to improve traffic flow and highway safety, all areas in which this Committee has also expressed interest.

Reliance on User Fees.—$20.7 billion or 78 percent of the Department's budget would be financed from user fees, up from 68 percent in FY 1990. Our user fee package includes increased aviation fees and proposals in Coast Guard, Railroad Safety and Commercial Space Transportation, all of which are critical to support the funding requests in this budget.

Let me now talk more specifically about the individual programs and funding levels proposed.

FEDERAL AVIATION ADMINISTRATION

For the Federal Aviation Administration, we are proposing a budget of $8.3 billion. This is a 16 percent, $1.1 billion increase over the FY 1990 level. The request, which parallels our reauthorization proposal, includes $4.2 billion for FAA's capital programs, a 27 percent increase over FY 1990.

The centerpiece of the capital request is $2.5 billion for Facilities and Equipment, a 45 percent increase over FY 1990. This request supports the FAA's comprehensive plan to modernize and improve the nation's airspace system and air traffic control facilities. It also provides funds necessary to maintain and expand current equipment in the interim. This significant increase is necessary to keep pace with the implementation of major projects such as the Advanced Automation System to upgrade air traffic control computers, and the Voice Switching and Control System to modernize the system's outdated communications network. We must also fund near-term requirements to expand capacity and support increased air traffic at several airport facilities. Finally, this request reflects the priority President Bush has placed on modernizing the airspace system which, I might add, is included as a goal in his Management By Objectives system.

We also request $1.5 billion for Airport Grants which, together with a reauthorization proposal to allow airports to collect passenger facility charges (PFC), will greatly expand the funds available for airport construction and other capacity projects. As part of this PFC proposal, airport grant entitlement funds, that airports levying PFCs would forgo, would shift to discretionary funding for capacity and other airport development projects. Additional funding is critical to meet increased airport needs—among the top 100 airports, 56 new runways are planned. New airports are being discussed for Minneapolis-St. Paul, Chicago, Atlanta and San Diego.

Finally, $190 million for Research, Engineering and Development, a 12 percent increase, is requested to address long-term aviation system needs and the more immediate needs of explosive detection, aging aircraft and human factors research.

For FAA Operations, we are proposing $4.1 billion, a seven percent increase over FY 1990, with funds included to support growth to 17,495 controllers, an increase of 495 over the FY 1990 expected employment level; 300 new safety inspectors for a total of 3,058; and 164 new security specialists for a total of 848—a 24 percent increase over FY 1990. We appreciate the Committee's support for staffing increases requested in the past, and with continued projected growth in aircraft operations, we need further increases. Additionally, it is vital that we provide effective training and deployment. To that end, our budget includes funds to continue the pay demo and training initiatives and to keep pace with permanent change of station requirements.

We are proposing that eighty-five percent of the FAA budget be financed from the trust fund consistent with civil aviation use of the airspace system. This heavier reliance on the trust fund for FAA support (versus 55 percent average in the past five years) together with increased spending for capital programs will reduce the trust fund balance. At the year's end, under our proposal, the trust fund's uncommitted balance would drop 16 percent to $6.4 billion compared to the projected FY 1990 level of $7.6 billion. By FY 1995, we anticipate that the trust fund's uncommitted balance would be cut by 53 percent to $3.0 billion.

The current user fee rates do not support the level of spending we believe is necessary to meet aviation needs. Without the user fee increase, the trust fund surplus would become negative in FY 1994. In order to provide a program increase of $1.1 billion for the FAA and increase the share of the FAA budget financed by the trust fund, the budget proposes to increase aviation user fees; the passenger ticket tax would increase from 8 percent to 10 percent of the ticket price and the fuel and freight waybill taxes would rise commensurately. These changes will add $623 million in new revenue in FY 1991. With expected growth in air traffic, trust fund revenues would increase by $960 million in total. These user fees are essential to meet the funding needs outlined in the budget. In fact, the budget proposes to increase outlays from the trust fund by $2.5 billion, $1.6 billion more than the increase in revenues.

U.S. COAST GUARD

We are proposing a $3.4 billion budget for the Coast Guard, a six percent increase over the FY 1990 level which included operating funds and services-in-kind from the Department of Defense. The budget includes increased funds for all of Coast Guard's missions. In particular, the budget includes a total of $229 million for marine environmental protection activities, an increase of seven percent over FY 1990. This includes $7 million for a new environmental compliance and restoration account, established by the Coast Guard Authorization Act, targeted to Coast Guard facilities. Coast Guard's support for drug interdiction programs will increase eight percent to $731 million. The budget also proposes to collect $200 million in user fees associated with Coast Guard's critical safety services to the maritime community. As the Coast Guard celebrates its 200th birthday, we are also paying attention to the infrastructure that supports the men and women of this service. The budget provides $86 million for shore facilities, including $13.5 million, a 35 percent increase, to improve housing conditions.

FEDERAL HIGHWAY ADMINISTRATION

Our proposals for the Federal Highway Administration (FHWA) will continue efforts to meet highway infrastructure and safety needs. The Federal-aid highways obligation limitation is set at $12.013 billion, 6.2 percent above the FY 1990 President's Budget. This level will cover the Federal share of the cost to maintain the physical condition of bridges and highways of national importance and to continue completion of the Interstate System. Recognizing the importance of research as an investment in the efficiency of highway transportation, the budget proposes $44.1 million for highway sciences and technology research including $13 million to accelerate our role in promoting the development and use of new highway technology to address congestion problems. NHTSA and FHWA are also jointly funding, in partnership with private industry and academia, the development of an advanced driver simulator to aid the improvement of vehicle crash avoidance capabilities and to enable us to consider human factors and safety needs in the development of intelligent vehicle highway systems. The budget includes $3 million to support this project, which is consistent with this leadership in this area shown by this Committee for FY 1990. We are also continuing our efforts to fight gas tax evasion and the budget includes $2 million in support of this goal.

For the Motor Carrier Safety program we request $41 million, an increase of 22 percent, which will allow us to complete the phasing-in of the 185 new inspector and support positions authorized in FY 1990. We expect to increase the inspector work force by 52 percent over two years, from 291 FTE in FY 1989 to 366 FTE in FY 1990 and 441 FTE in FY 1991. We share your concern for strengthening enforcement measures with regard to motor carriers. We have recently submitted to the Committee a report on our plans and efforts to improve enforcement.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration (NHTSA), the FY 1991 budget requests a funding level of $242.9 million, a $12.2 million, 5.3 percent increase over the FY 1990 level.

The $117.3 million request for Operations and Research includes funding to support vehicle and highway safety, and related research and analysis programs. Of particular significance is the expansion of a program to train law enforcement officials to detect drivers under the influence of drugs. By the end of FY 1991, this program will be implemented in 50 metropolitan areas. In line with President Bush's commitment to reduce the extent of drunk driving, the budget proposes to fund the Section 410 alcohol program at $8 million—double the FY 1990 level—for incentive grants to States that adopt and enforce effective laws and initiate comprehensive drunk driving prevention programs. Our request builds on the efforts of this Committee to target Federal assistance to reducing drunk driving.

The $125.6 million obligation limitation request provides $114.6 million for Section 402 Highway Safety grants and $11 million for Section 408 Alcohol Incentive grants to States—the same level as provided in 1990.

URBAN MASS TRANSPORTATION ADMINISTRATION

Our $2.3 billion request for transit programs recognizes broad support for transit and seeks to focus the Federal dollar on the most cost-effective use, especially maintenance of the transit infrastructure. This request is 47 percent above the FY 1990 President's Budget. We request $1.08 billion for formula grants for capital and operating assistance but propose to eliminate operating assistance to cities over one million in population. The Federal subsidy in those cities averages less than six percent of total operating budgets, whereas for smaller cities, reliance on the Federal dollar is greater. Our proposal of $1.14 billion for discretionary grants would provide funds to help transit authorities address requirements to improve air quality and increase access to transit services for disabled persons. New starts funding of $398 million is limited to three projects with full funding contracts, and the second phase of the Los Angeles project for which a contract is expected to be signed. Funding for Washington Metro is $38 million, sufficient to cover management and construction costs planned for the 89.5-mile system and is consistent with the 1986 full funding agreement.

FEDERAL RAILROAD ADMINISTRATION

We are requesting $69.6 million for the Federal Railroad Administration (FRA) in FY 1991, which provides a funding increase of 24.7 percent for our three main operating programs. No Federal subsidy is proposed for Amtrak in FY 1991, given the budget constraints we face. While, Amtrak has made significant progress in increasing its revenue-to-cost ratio, it continues to run annual deficits of approximately $600 million. The Administration will work with Congress, Amtrak and other parties to determine how best to make Amtrak services even more cost-effective and to obtain needed capital in the private market. In other rail programs, we are proposing to increase railroad safety inspector employment from 330 FTE in FY 1990 to 361 in FY 1991. These staff increases are needed to help us carry out our responsibilities under the Rail Safety Improvement Act of 1988 and to ensure the safety of this vital transportation mode. Included in this staffing increase is a request for 12 trainee positions. By establishing a trainee program, we hope to address our mutual concern of meeting staff needs, especially as senior inspectors retire. We also request $6.1 million to expand our research efforts to determine the safety requirements for magnetic levitation (Maglev) and high speed rail technologies and encourage the development and manufacture of advanced Maglev transportation systems in the U.S. In certain areas, these high speed systems may offer great potential to help this country deal with congested travel corridors.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Our $27.5 million request for the Research and Special Programs Administration (RSPA) will continue the support of our safety and regulatory efforts in pipeline and hazardous materials transportation as well as other vital programs. Our proposal includes funding for a total of eight additional safety inspectors for RSPA.

We are also proposing appropriation language as a General Provision that would allow the Department of Transportation to evaluate and consider alternatives which would enhance the flexibility of the Department regarding use of the federally-owned land surrounding the Transportation Systems Center (TSC). Such alternatives would include various approaches along the lines of a public/private partnership to expand research in transportation. However, the current statutory restriction prevents us from identifying and evaluating alternatives.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

For FY 1991, $10.7 million is requested to be appropriated, from the Harbor Maintenance Trust Fund, for operation and maintenance of the United States portion of the Seaway. Non-toll revenues estimated at $1.4 million will assist in funding those responsibilities. In FY 1991, the Corporation plans to complete its pilot study of the use of electronic data interchange on the Seaway and the evaluation of the structural stability of the two locks it operates.

OFFICE OF THE INSPECTOR GENERAL

I am a strong believer in the work of the Office of the Inspector General (OIG) and I know that the Committee from time to time seeks the counsel of the OIG. For this office, the budget requests $34 million, a seven percent increase over FY 1990, to support investigations and other activities to promote economy, efficiency and effectiveness of the Department's programs and to detect fraud and abuse. The OIG plays an important role in ensuring the integrity and efficiency of the Department's programs.

OFFICE OF THE SECRETARY

For the Office of the Secretary, we are requesting appropriations totalling $102.7 million, a 4.8 percent increase over the FY 1990 enacted level. There are several major components of this request.

We are requesting $23.6 million for Essential Air Service. Unlike past Administration budgets that proposed to eliminate funding, this budget proposes a 23 percent decline from the FY 1990 level and continues an orderly phaseout of the program over time. We plan to continue and tighten the subsidy eligibility criteria initiated in FY 1990, with the support and direction of the Conference Committee.

For the Office of Commercial Space Transportation, we request $4.5 million to support the regulation of this new industry, as well as actions to encourage its growth. Commercial Space activity has been growing significantly, with launch activity increasing from two launches in FY 1989, to an estimated 20 in FY 1990 and in the range of 30 to 40 launches in FY 1991. Our proposal includes funding increases for safety research, licensing and inspection activities, and also industry analysis and research; all of which are needed to support this growing industry. We are also proposing to consolidate funding for these activities into a single account, as evidence of the growing importance of this program within the Department.

For Salaries and Expenses, we are requesting $60 million to support 621 FTE, a 1.4 percent reduction from the FY 1990 enacted staffing level, excluding the Office of Commercial Space. We appreciate the increased transfer authority of five percent enacted for FY 1990. However, we are requesting a lump sum appropriation for Salaries and Expenses. As I stressed throughout the discussions of the FY 1990 DOT Appropriations Act, office-by-office appropriations unduly limit our flexibility to direct resources, as necessary, to be responsive to issues as they arise. Given our good working relationship with the Committee I do not believe this constraint is justified, especially in light of the fact that only one other cabinet agency receives such treatment.

Once again we are proposing to repeal the spending cap on advisory committees. Advisory committees provide an important perspective on the issues facing the Department. However, the cap can cause significant constraints on the Department's ability to comply with statutorily authorized advisory committees—several of which have been enacted since the cap was imposed. I assure you that I am attuned to your concerns about the level of spending on advisory committees. In fact, I have directed a task force to identify advisory committees that could be terminated as well as other ways to reduce or control costs.

CLOSING REMARKS

In the past year that I have been Secretary, I have devoted significant time and travel to understanding the Department of Transportation—its people, its programs and the issues it faces. Be it at meetings with headquarters staff or through travels out in the field at DOT facilities across the country, I am convinced that the men and women of the Department of Transportation are hard working and highly professional. As a result of the outreach, analytical and assessment processes that the

Department went through in the course of developing our forthcoming National Transportation Policy, I am also convinced of the infrastructure needs of this country. Our budget request for FY 1991 asks for the resources needed to support DOT employees in their work and address the critical transportation issues of this country. I look forward to working with the Committee to respond to what I hope is a mutual agenda.

This concludes my prepared remarks. I would be pleased to answer the Committee's questions.

STATEMENT OF SENATOR DOMENICI

Senator LAUTENBERG. Thank you, very much, Mr. Secretary. We're pleased to have with us our colleague from New Mexico. He and I have spent a lot of time together lately trying to clean the air, and I think one of the things that we've decided upon is that we need to have a good, efficient transportation system. I would ask for your indulgence so Senator Domenici could be permitted to make a short opening statement, Mr. Secretary, if that's all right.

Secretary SKINNER. That would be fine.

Senator DOMENICI. Mr. Chairman, let me first say that I believe Republicans have a conference on clean air shortly, and I'm lead to believe that your side is also scheduled to caucus.

Senator LAUTENBERG. Yes; and also the independents.

Senator DOMENICI. Who are they? Are you one of them? Senator D'Amato is. I would say that if you want to reschedule this hearing, I would make every effort to come back.

SANDIA NATIONAL LABORATORY

Rather than an opening statement, Mr. Secretary, let me raise an issue in which no one would expect a Senator from New Mexico to be involved. My home State doesn't have any industrial manufacturing of airplanes, or even airplane components, that I'm aware of, but we do have some rather spectacular national laboratories. I think perhaps you're aware of the laboratories in New Mexico. Sandia National Laboratory, in Albuquerque, is really the giant laboratory that has had a lot to do with the military's approach to assessing the safety of aircraft from the standpoint of their structural soundness and maintenance. Sandia Laboratory has been part of the backbone of the science that goes into an approach that is far beyond manually assessing the structural safety of aircraft. You are well aware of the fact that this airplane fleet of ours is growing old, and that we need to apply advanced technology to be able to determine in a scientific way the structural soundness of these aircraft.

I am very impressed with the notion that has been submitted by Sandia National Laboratory, the Science Applications International Corporation, and one of New Mexico's leading universities to establish what they would call nondestructive evaluation centers. This proposal would borrow on the military approach of applying new equipment, machinery, and technology to determine the structural integrity of aircraft and the integrity of mechanical systems. I wonder if at some point, since you're going to be spending $190 million in the FAA on science and research, you might address that specific issue, and whether these kinds of centers make sense to you and, if not, where are we going to go to get the science to move quickly into these particular areas.

Secretary **Skinner**. Yes, Senator; we have, as you know, over the last 2 years, made a substantial increase in our program dealing with the aging fleet. This effort has been in conjunction with the aircraft manufacturers as well as the airline companies that are using these aircraft. It has been a joint venture process and has resulted in a number of suggestions that have been implemented by the FAA.

Since 1959 we have been spending a considerable amount of money on this project. About $5 million a year, since fiscal year 1989, is programmed on research to develop new techniques for maintaining older aircraft and we expect we will increase that significantly.

One of the key parts of this program is, for the first time, the FAA, the industry, and the people that use these aircraft are all working together. FAA is participating in research going on already at NASA, the Department of Defense, and our own Transportation Systems Center as well as at Iowa State and Wichita State.

Also we recognize that there has been a suggestion made that we develop nondestructive evaluation centers and we'll explore that with the industry and a joint task force in the not-too-distant future to get an industry response. It is important, given the fact that we would rely almost totally on the industry and manufacturers to implement any FAA-mandated programs that result from this research, that we get their support for such a concept.

It's hard at this stage to predict with any degree of certainty—and I've just begun to look at this—what the industry groups, reaction is going to be. I would suggest that organizations such as RAA, GAMA, ATA, and a number of those organizations that have so much knowledge and have participated with us in these early studies, and the people who are interested in this nondestructive evaluation center concept should discuss prior to our upcoming conference the feasibility of that concept.

Senator **Domenici**. Thank you, Mr. Secretary.

Senator **Lautenberg**. Thank you very much, Senator Domenici. We are fortunate in having Secretary Skinner as Secretary, not only because he's got the personal attitude to be direct and candid, which suits me, and because we spend some interesting moments together being frank and candid, but he also has the benefit of knowing something about aviation technology, having spent part of his life in aviation, having been a flyer. The lawyering part we'll forget about. He was also a chairman of the a transportation authority who was known to haunt these halls a little bit when looking for the assistance that he needed to keep the Chicago metropolitan area moving nicely, and we hope that his memory is still as fresh as his demeanor.

Secretary **Skinner**. Selective recall.

NATIONAL TRANSPORTATION POLICY PROGRAM

Senator **Lautenberg**. I wanted to ask a few questions and what we'll do, if it's all right with you, Mr. Secretary, I will ask Senator

D'Amato to take over for a while so I can go to that clean air conference because I have been an integral part of the negotiations.

It's my understanding that the release of the National Transportation Policy Program that you were going to be presenting was held up in part because OMB saw some of your increased spending requests and they were concerned about it. Is that true?

Secretary SKINNER. No; that isn't true. What happened is we established last February, a date to complete this most comprehensive policy review probably ever to hit the Department and we put a deadline on it of January. We basically met that deadline, began to discuss it with the Office of Management and Budget in November and most of our issues were resolved without any dispute whatsoever.

In the meantime, as part of our programming, it became obvious to us that the President was going to issue his budget, address the State of the Union, and have his economic report to the public. All of those things had to be scheduled prior to the time that the President and I would announce the national transportation policy.

Senator LAUTENBERG. Mr. Secretary, that was not new information. I mean you knew that in January. The President regularly does those things.

Secretary SKINNER. When I put the date of January on it, that having been my first year, I didn't really focus on that. I accept responsibility for those dates. I would not have set the January date had I been here a year and thought about that whole process, which I hadn't been through. But to answer your question, because you may think I'm evading it, we've had no major disagreement with the Office of Management and Budget on the national transportation policy. The changes that have been made are what I would call wordsmithing. OMB may think they were something more than that, but if you look at the substance of the themes that are contained in the policy, there have been no changes.

Senator LAUTENBERG. So they agreed with your policy recommendation all the way.

Secretary SKINNER. That's correct.

Senator LAUTENBERG. You're the Simon Legree in this and not OMB? I just want to set the record straight.

Secretary SKINNER. I accept full responsibility for being Simon Legree in the eyes of some.

Senator LAUTENBERG. I guess they're not in this room today. The point I want to make here is that we had hoped that we would have this outline of a program available so that we might discuss it. I don't want to rehash this and I'm not looking to fix blame. It represented an opportunity. We do look forward to having your program in front of us and again maybe we can then get together again and review it.

As a kind of a lead, what are you projecting by way of new and innovative approaches to deal with our mobility problems, in highlight form?

Secretary SKINNER. Let me say that I do believe that this blueprint, the national transportation policy, will give us a very good road map or strategy as we begin to implement FAA reauthorization and surface transportation reauthorization next year. It will allow us as we go forward to implement programs and legislation that give State and local government more flexibility in program planning and implementation. It will suggest alternative ways for funding some of the infrastructure programs and it will allow organizations in both the private sector and local organizations that wish to use these new ways of attracting investment to do that with some what I would call changing of the oversight responsibilities in Washington.

It identifies new sources of user-fee based revenues for transportation. I point up just one example. Senators D'Amato and Lautenberg, you're from New York and New Jersey. You understand the value that tolls play in funding the infrastructure of New York and New Jersey. The State of Illinois just opened a new tollway in Illinois, one of the first new major tollways opened in this country in recent years, and its usage is well beyond what was expected. Users are willing to pay for infrastructure and willing to pay tolls to use it. That's true all over this country and today we don't allow tolls on many of our arteries. We hope that we can allow flexibility in that area. Another area that we have discussed before would give State and local governments the option of imposing passenger facility charges to build their local aviation infrastructure. PFC's would give them the flexibility they don't now have and also eliminate the need to get into trust fund issues and to rely on budgeting at the national level, which changes with the winds.

Those are concepts that are contained in the policy. We believe that increased State and local funding, which people are willing to support if they know it goes for infrastructure, should not only build greater responsibility but also greater flexibility. We will also have intermodal aspects to the program so that the Urban Mass Transportation Administration and Federal Highway Administration and the FAA can work together to develop a funding source to support an effective intermodal structure.

USER FEES

Senator LAUTENBERG. I wish we had more time to explore these because New Jersey has had more than abundant experience with user fees and tolls. Specifically we have it coming into our State, and leaving our State. We've got two major roadways that have toll systems and we find that very often they fall short of their needs. I won't talk about the bridges and tunnels, they're separate authorities, but within the State, they fall short of their needs for expansion and create terrific congestion at very inopportune times because you never have enough tollgates spread out there.

I had an idea that we ought to draw a red line not too far beyond the tollgates and say any time the traffic gets beyond that line we ought to let them drive for free. I think its a hell of a burden to ask people to wait to give their money away. Supermarkets are smart enough to know that if you keep people waiting at the checkout stand, they won't use them. That fundamental business concept doesn't seem to work on highways. Invariably you get the pollution build up, traffic delays, all the problems at these places. So there obviously is interest, a lot of support, for funding these things on the user-fee basis, but there are also enormous problems. When you say allow more flexibility, Mr. Secretary, I think that's a euphemism for "take care of yourself." Senator D'Amato is here with a perfect example—that subway system of theirs carries more and more traffic, and if they asked the riders to pay higher fees—the same thing in my State, to carry the system, it would become such a burden to them that you would drive people away from them. That's a subject that's not going to go away in a hurry.

Don't user fees resemble something like—I don't like to use this dirty word since we have television here—taxes? That's a 5-letter word, taxes. Isn't moving the responsibility from the Federal Government to local a tax of some sort? We've changed the hat of the collector. It's not IRS but the conductor.

Secretary SKINNER. There's no question that a number of user fees placed on the local level have been known as motor vehicle taxes. It's not necessarily a bad word at the State and local level. Eighteen States last year raised their motor vehicle tax. My philosophy and the President's philosophy—and I say this with a great deal of experience and after a great deal of thought—is that a project that is federally and locally funded on an equal basis has a better chance of being built efficiently. Local accountability for State and local taxes is much greater than at the Federal level.

There is an attitude of why don't you go to Washington and get some money. We only have to have 10 cents; they have 90 cents. The attitude of State and local officials responsible for infrastructure toward that free 90 cents is substantially different. Unfortunately the accountability that State and local taxpayers have for those moneys is less than if it were State and local money.

Finally we've got to be realistic. Transportation has the opportunity to finance itself through user fees. Many of the problems in this Nation don't have that opportunity. A great deal of general revenue is still going into the savings and loan crisis. We have a $200 to $250 billion high-level radioactive nuclear waste problem that we have to deal with. The No. 2 problem behind drugs for the American people, is what we are going to do about health care. This is a very major problem and the President is committed, Doctor Sullivan is committed, to do a major study. All of those problems tax general revenues at the Federal level. I think user fees represent a unique opportunity to fund infrastructure without competing for funds with those crises.

Senator LAUTENBERG. Once again, Mr. Secretary, we can debate those things. If it seems to you that people who work for a living, hourly wage people, can afford to pay substantially more to get back and forth to work, I think you're in error. You know the city of Chicago. You know what urban living is like. Those people don't have the privilege of just paying a little bit more. It costs—what's a fare on the subway?

Senator D'AMATO. $1.15.

Senator LAUTENBERG. That's very quickly $12 a week and that's——

Senator D'AMATO. Mr. Chairman, where I'm concerned is that when you take large commuter lines, which will suffer as a result of this, and move tremendous numbers of people, about 400,000 if we were to take the commuters from New Jersey and Long Island and Westchester, they are paying close to $170 a month for commutation. There's no doubt in my mind it is the most cost effective manner by which to move large numbers of people and that experience shows us that when we raise those rates instead of encouraging growth and development on those lines, we push them onto the highways and the highways just simply can't take it and then we have the pollution problems and all attendant with it.

It just seems to me when we talk and here—we are both missing conferences dealing with clean air—the major matter being the automobile and particularly as it relates to our large urban centers, we have not developed and maybe it should be—I don't know if the clean air bill—we haven't developed a mechanism to encourage this mode of transportation, to encourage the capital to be put into it and it's counterproductive and that's the frustrating part. I know, Mr. Secretary, you've got to defend it and you do it and you do it well with dignity——

Senator **Lautenberg**. Don't get carried away.

Secretary **Skinner**. Go ahead. Get carried away.

302(B) ALLOCATION

Senator **D'Amato**. The inadequacy would be the budget in this area. You're not the first. Now we get down to the point where I am very fearful that this year—and I've been watching this process now for 10 years and I've participated in it—we bumped right up against that budget wall. We are going to get a 302(b) allocation that is not going to give us the ability to do the kinds of things heretofore that we've done. There's no more Paul to rob.

We've got some real problems and I think we are going to be in a hurting position much more this time than we have been in the past 10 years.

TRAFFIC GROWTH PROJECTIONS

Senator **Lautenberg**. I'm going to ask a couple of questions and I'll turn it over to Senator D'Amato. Fear not, Mr. Secretary, I'll be back.

The Department of Transportation predicts that inner city car traffic is going to grow 3 percent annually, and airline passenger traffic 4 percent annually, for the next 10 years. Obviously you agree with these figures because those are numbers that your Department has produced. We have no challenge about that. Three percent growth in automobile traffic and 4 percent in aviation, yet the National Council of Public Works gives our Nation's highways a C-plus. They grade the aviation system a B-minus. Does the administration's budget request reflect its belief in those traffic growth projections, Mr. Secretary? It suggests even greater stress and strain on our highway system.

Secretary **Skinner**. Let me say that the capacity problems in this country are severe and it is hard to say where they're most severe. If I were forced to make a decision, I would say the fact that we haven't expanded the aviation system in this country, while the volume and passenger travel has doubled in the last 10 years, has created a very serious problem. The President's budget, when you include the increased funding for the FAA as well as the authority for State and local organizations to raise revenues through PFC's, will add, on an annual basis, significant capacity in the long run.

That is the capacity issue we've addressed first and I think between our automation and airport side increases in infrastructure, we are making real progress on that problem.

Next year is the year of highway reauthorization, as you know, and I would hope that next year's budget will address the highway and mass transit authorizations as aggressively as we have addressed the aviation issues this year.

CLEAN AIR

Senator **Lautenberg**. I would agree with that, but I think Senator D'Amato called attention to the fact that one is at a very serious expense to the other.

Mr. Secretary, we've all heard so much about clean air these few days. I'm sure you believe that clean air is a worthwhile goal—that is either a yes or no.

Secretary **Skinner**. Yes.

Senator **Lautenberg**. Don't you see a connection between mass transit, railroads, and clean air objectives?

Secretary **Skinner**. Let me give you a good example. I participated with the administration on clean air especially on those issues dealing with the transportation industry. Let me give you an example of my thoughts on the Los Angeles area, where we have the worst air problems in the country. Brian Clymer and I recently visited California and we were astounded to see the cost of gasoline; 78 cents for leaded gasoline and 83 cents for no-lead in a community that is literally choking both on the highways and in the air because of an excessive use of the automobile. When, for infrastructure purposes, the State of California and the legislature present a referendum to the people of California, everybody tells me that referendum is in for a very tough fight, yet everything must be done to hold down unnecessary auto usage and get people into different modes of transportation.

State and local organizations have got to take greater leadership in dealing with clean air problems. We cannot solve all of their problems in Washington. That's an ancillary benefit of our suggestion to increase the user fees at the State and local level. In addition to raising funds for infrastructure, which a majority of persons support, it also will, within the elasticity of pricing result in less gasoline consumed and less auto mileage.

Senator **Lautenberg**. You're not arguing with the fact that railroads, mass transit, et cetera, are a good way to go; what you are focusing on is that funding side.

Secretary **Skinner**. Absolutely.

Senator **Lautenberg**. You agree that you get an environmental benefit by using railroads, using mass transit.

Secretary **Skinner**. There's no question in the major metropolitan areas and that's why we have a full funding agreement that we are getting ready to sign with Los Angeles on the biggest mass transit program in the country. Los Angeles had a mass transit program and abandoned it for the automobile and now we are spending billions of dollars to restore, mostly with State and local funds and some support in Washington, the most comprehensive mass transit program in the history of California. We are behind them fully.

Senator **Lautenberg**. I'll excuse myself now.

OILSPILLS

Senator **D'Amato** [presiding]. I wonder if we could focus on the latest spill in Staten Island, and the last report in today's media reports show that 27,000 gallons leaked out. The attorney general of our State is asking for civil and criminal sanctions on Exxon. Exxon has indicated that it's not responsible. Apparently a private contractor, Eckloff, is saying that it's going to bring this up because of reports that there was a hole already above the water line of 12 to 6 inches. Are you aware of any action that the Coast Guard has taken in regard to this and will you pursue this by way of investigation and have your Transportation Department look into this as well?

Secretary **Skinner**. Yes; let me give you some observations on the spill. As you know, Senator D'Amato, we have several thousand spills a year in this country. Most of them are cleaned up without incident and in short order. I'm optimistic that everything is being done near Bayonne to clean up the spill. It occurred at 3:53 a.m. By 4:30 a.m. the Coast Guard personnel were on the scene. The barge is owned by Eckloff and the hole is a 1-foot-by-6-inch hole. The barge was inspected while in service in March 1989. The damage appears to be new damage or new impact damage and we are still inspecting what happened and why. But as far as we can understand, that's new damage that occurred recently and was not in existence at the time of the inspection. The barge does have a valid certificate. Barges are normally dry docked and inspected every 2 years. The barge is owned by the Eckloff Marine Co. They have accepted responsibility. We have assumed responsibility to get the cleanup going more vigorously. Exxon is cooperating. They are not the owners of the barge and not responsible for the leak directly. I'm optimistic that with the Atlantic area strike force on scene and the amount of equipment that we have, we will shortly clean up that spill and we'll report to you as to what we learn.

I might also, if I could take another 25 or 30 seconds, talk about the Huntington Beach spill. That is the biggest spill we've had in this country since the *Exxon Valdez*. My last report from that area was that the beaches are open or will be open shortly. The British Petroleum Co. assumed responsibility immediately and officers of that company were on the scene working with the Coast Guard. Equipment from all over the country was flown in and, though that was a large spill, it was still about 1/20 the size of the spill in Alaska. It was cleaned up by a force of Coast Guard and industry personnel working together on a continuing basis in about 2 weeks. That indicates to me that, with the proper amount of resources and equipment available and the proper structure in place, the oil industry, under the guidance of the Coast Guard, can clean up a major oilspill and eliminate or prevent long-lasting ecological damage. With 6,000 spills a year, we've got to do everything we can to make sure our system is as safe as possible.

COAST GUARD'S PERFORMANCE ON OILSPILLS

Senator D'AMATO. Let me pursue that point. Would you give me an assessment of how you rate the ability of the Coast Guard to respond to an emergency such as a major oilspill today, in comparison to what it may have been a year ago.

Secretary SKINNER. I think it's fair to say that the Coast Guard has, as a result of the *Exxon Valdez,* gone through and updated all of its contingency plans. There have been some additional resources put into the strike forces. We are doing some additional vessel traffic guidance through some of the areas. But we still rely under our current structure on the oil industry as the first line of defense on an oilspill. We have over the years required oil companies to take responsibility for a spill and to put into place forces to clean up that spill. We have made available the equipment we have in our two strike forces and we continue to update our equipment and make sure that the industry has their equipment updated. But we have not, under our current structure, in the last year assumed or built up or had the resources, even if we wanted to, to build up the industry response capabilities, and transfer them to the Coast Guard. Nor do I think we should do that. I think the industry, as demonstrated by British Petroleum at Huntington Beach, if properly motivated, can marshal the best quality cleanup team in the shortest order to deal with most spills.

Senator D'AMATO. Let me put it this way. Is it fair to assume that as a result of *Exxon Valdez* and a greater awareness of certain deficiencies, do you feel more confident that we can marshal and respond more quickly?

Secretary SKINNER. Yes; but if we had an *Exxon Valdez* spill and were required automatically to federalize that spill because the company did not take responsibility, we do not have the resources necessary nor do we have the mechanism in place to spend $1,900,000,000 which is what Exxon spent in about 6 months in Alaska. We don't have the funding or mechanism to do that. We rely on the industry to provide those resources.

FEDERALIZE OILSPILL

Senator D'AMATO. You do have the authority pursuant to the law?

Secretary SKINNER. We can federalize it. I would have to come to the Congress for an appropriation of $1 billion because the fund has probably got $20 million in it. In the meantime, I have to hire 12,000 people, train them, equip them, give them a contract with private contractors for anywhere from 200 to 400 vessels and I have to do that in most cases within 2 weeks. I will be honest with you, neither the U.S. Coast Guard nor the Federal Government is equipped today to put that kind of effort in place as quickly as the private sector can.

OILSPILL LESSONS

Senator D'AMATO. Let me ask you about the private sector. I'm not attempting to put the onus or the responsibility for the actual getting out there and paying, but for coordination, et cetera, is the private sector more aware? Are they better prepared? Have they undertaken certain plans and programs to respond today in a much quicker fashion than prior to the *Exxon Valdez*?

Secretary **Skinner**. I think it is fair to say that the biggest lesson as a result of *Exxon Valdez* was taught to the industry that No. 1, they cannot assume a spill isn't going to occur and, No. 2, if one does occur, they were inadequate in their preparation for such a spill. The oil industry has spent millions of dollars to upgrade their plans and get their equipment and people into place so they can respond more quickly. The *Exxon Valdez* situation is not going to be repeated whether it be Huntington Beach or any place else.

Senator **D'Amato**. I'm interested in your candor when you say they were inadequate prior to *Exxon Valdez*. Do you think that is a fair assessment?

Secretary **Skinner**. There is no question that they assumed in Prince William Sound that they would never have a spill and the consortium that had responsibility for devising the plan and reacting to a spill just wasn't ready. I am confident that if that spill were to occur today, you would see the industry respond much differently, without regard to what company it is, than it would have a year ago.

On the other hand I want to be fair, that spill was a very unique spill. That was the biggest spill in American history. Of the 5,000 or 6,000 or maybe as many as 8,000 spills that occur, most of them are cleaned up in very short order. Even spills the magnitude of the Huntington Beach spill can be cleaned up in short order. The circumstances in the remote areas of Alaska are quite unique to the history of spills and they have updated their entire program. We would still—if it occurred in March, in that water, in that weather, and that size—incur a substantial flow of oil all the way down into the Gulf of Alaska.

COAST GUARD ROLE IN OILSPILL

Senator **D'Amato**. Let me come back to the question that I probably very unartfully put to you in the beginning and you have, I think, given me a proper frame of reference in which to proceed. What role has the Coast Guard played, if any, helping to develop a more adequate response on the part of private industry in relationship to spills? Have they played a role and what role have they played?

Secretary **Skinner**. First of all, we have been meeting with the industry throughout this country reviewing contingency plans at major areas. The industry is much more aware and is much more prepared and that's because the Coast Guard has been monitoring what they're doing and encouraging them to do more. The Coast Guard has had sessions with the industry to discuss the experience at the *Exxon Valdez* spill and to share expertise much the way we did on the aging aircraft issue with the manufacturers of aircraft.

Finally we have begun to rethink the Coast Guard's role. That will be determined as you know by the ultimate outcome of the oil bill conference that will occur early in March. I'm optimistic that once we have the roles properly defined by the oilspill legislation, we will then want to restructure accordingly.

OIL BILL

Senator D'AMATO. What are some of the things you believe will come. Will there be additional authority granted to the Coast Guard as a result of this?

Secretary SKINNER. The biggest single thing that will happen is a fund of substantial magnitude for cleanup as well as for damages. I'm optimistic that that fund will be available and we will not have to be forced into a situation where we have $15 million to clean up a billion-dollar spill.

No. 2, I think there will be a better delineation of industry and Coast Guard responsibilities and how they will interface with each other.

Finally, I'm optimistic that we will be able to authorize and ratify the protocols negotiated several years ago. A good example is the one we have right here in the spill. The company that's involved is not Exxon. They didn't own the product. The company that was involved is Eckloff. Eckloff, to my knowledge, does not have as deep pockets, as we say in the law, as the Exxon Corp. If, in fact, Eckloff was a one-tanker company and had a spill of the magnitude of the Huntington Beach spill, I think they would not have the resources nor would they step up to the responsibility as did BP and Exxon.

If we are not careful, we are going to force the transport of oil by organizations and entities that don't have that deep pocket and then we will not have a responsible party to look to for the cleanup.

OILSPILL RESPONSIBILITY

Senator D'AMATO. Are you saying that there is, or could develop, a situation that responsible organizations, such as the major oil companies, would perceive it to be in their best interests to divest themselves of that transportation link thereby creating a situation for others who would come to fill that void who might not have the kind of financial backing and support so that when and if—and we know that there will be an accident, the question is how do you minimize the damage—that we will not have the kinds of resources in the companies operating to see to it that there is as immediate a response to minimize the damage as possible thereby as a result of well-intentioned legislation? I'm talking about this double hull business—something which is a raging controversy. I have had many Members of Congress, some who have a far greater degree of expertise—I have little, if any, in this area—who have told me that although they will vote for this double hull legislation, they feel that it might have the impact of driving the people who have the ability to operate and make the necessary repairs out of business and drive up the costs and further endanger the environment.

Secretary SKINNER. You're absolutely right.

DOUBLE HULLS ON SHIPS

Senator D'AMATO. You know the political ramifications. Vote against the so-called double hull, then my friends in the media and some conservation groups say "He doesn't care about the environment; he's protecting big business."

Of course the cost—and you might want to touch on some of those cost factors. I've just recently—the staff has been trying to bring me up to speed on these things, but they've been telling me about this, that this is going to have an incredible impact, may create some very real problems and I would like you to touch on that.

Secretary SKINNER. You have identified a major issue. I must say this is the most thoughtful discussion with a Member of Congress on the record that I've had on it. I'm more than glad to discuss it because I've done the same kind of analysis you have. I've talked to people all over this country.

No. 1, to retrofit with double hulls—to double hull the tankers in this country over a period of time—is a multibillion-dollar decision the costs of which will be passed through to the consumer. No. 2, we don't know whether we'll be able to retrofit these tankers. The American shipbuilding industry has some capability but many of these tankers were built abroad and no American shipbuilder can do the double hull for the largest tankers. The people that built the tankers have their shipyards booked and may not want that business. So realistically there may not be facilities in the world to do it. No. 3, a lot of companies are going to redevelop distribution systems and, rather than double hulling all ships, they're going to take the single hulls and offload somewhere into smaller tankers and then double hulled smaller tankers will come in and bring their oil into the United States. That means instead of having 20 movements, we may have 60 movements. Every time you move a tanker, you put at risk the possibility of a spill. The possibility of a spill increases three times if you have as many as three times the number of tankers in transit. We don't know how we are going to do that.

We don't know for sure from an engineering and technical viewpoint how to do that. The National Academy of Science is working with the Coast Guard on it. I hope they will be given some flexibility in implementing a double hull concept so we can put the right concept in rather than mandating something and then 6 months later saying we can't do it. We've got to leave some flexibility in the bill.

Senator D'AMATO. Tell me about this double hull. How much space is in between?

Secretary SKINNER. I don't know the answer to that question. Somebody can probably give it to me.

We'll get that for you in a second. The other part of the question is finally an oil company is not going to risk its entire balance sheet on a one-tanker accident. They're going to find ways to restructure the distribution system so they don't own the oil when it's put on the tanker. They don't own it until it's in storage tanks on the ground.

You might say as well those tanker companies will have to have insurance and liability. Let me tell you what happens. They can't get it. I don't know of an insurance company that will give you 1.9 billion dollars' worth of insurance on an unlimited basis. Therefore, if the State of Maine or the State of New Jersey has unlimited liability and requires tankers coming in there to have insurance and they can't get it, those tankers will gravitate toward other States that don't have those restrictions and the cost of transportation of products up to the Northeast, will be increased substantially.

It appears to me that notwithstanding the environmentalists, we've got to look practically at what we are going to do. What we want is to have companies like Exxon and British Petroleum available to clean up spills immediately with their resources, to be willing to do so and to have a program that doesn't penalize them for doing so or put them at additional risk by being a good Samaritan or assuming corporate responsibility. My staff would be more than glad to discuss these issues with you.

Senator D'AMATO. Mr. Secretary, as you recognize, having had long experience in this, I will automatically be suspect that I raise that issue by the environmentalists and others and that I'm attempting to thwart some good principles. If exposing the facts creates problems for them, I think people should know the consequences and not blindly rush into this situation. I'm talking about my congressional colleagues who have indicated they're going to vote for this legislation notwithstanding—they recognize that it will create enormous costs, unnecessary in many cases, for the consumers. Then there is a question as to what safety is really increased. Someone has told me that this double hull would not have eliminated or made impossible, the *Exxon Valdez* accident. I don't know if that's the case or not. Has anybody looked at it? What are the consequences of an accident like that if you're aware.

Secretary SKINNER. I will say that what you're really talking about is what is the most environmentally responsible decision. Without further study, without the benefit of the National Academy of Sciences report and without a detailed analysis of distribution systems in this country and what the oil industry and transporters would really do, a decision to go to double hulls may be environmentally irresponsible. Therefore, we should move cautiously until we've had the benefit of the research. The last thing we want to do is create a system that creates a greater risk of spills because of changes in the distribution network.

Finally, we don't know with absolute certainty, but I think we can say in all likelihood a double hull would not have prevented the spill. When you move into an island at the speeds that that tanker was moving, the fact that you've got a gap in a double hull is not going to stop the rupture. There are some people who believe that, with a double hull, the puncture would have been there, the tanker would have been thrown off kilter to some degree and we might have had the tanker capsize and spill the 40 million barrels into the water.

So I suggest that without further work if we mandate double hulls, the Department and administration will be back, with the willingness of Congress, to revisit how it's implemented before a year is out.

COORDINATION ON TRAGEDIES

Senator D'AMATO. Mr. Secretary, let me take you to another area. We've talked about the spills. Now I would like to talk about the PanAm 103 case. As you know, and your people have been part of the process for the commission of which I'm a member, we've been advised the Department of State has not been able to secure in a timely fashion a complete listing of passengers who were on 103 and of course this information becomes essential if you have this kind of tragedy. One of the valid complaints of the families of those who were killed is that they felt that they wanted the Government to communicate to them, the State Department to say yes, your husband or son or whoever was on that plane or not on that plane. That has brought us into a conflict. The State Department has been in negotiations with the Air Transportation Association as it relates to procedures. Mr. Secretary, this has dragged on for an interminable period. I guess what it comes down to is airline companies aren't willing to give their manifest of the passengers to the State Department, to the FAA. I think they certainly have a right to say they want to see some relationship with Government. I don't know what the proprietary interest is or not. I don't believe there is one. I certainly think there's good Government policy that the FAA should know who's up there at any one time. I don't know whether you want that or don't want that. I don't want to put you in unnecessary conflict but it seems to me that there will never be an agreement if we are talking about a deputy assistant in the Department—and I do not say that to deprecate anybody who holds that title who is doing important work—but I think it's going to take, Mr. Secretary, to be candid with you, your intervention at a high level to sit down with the air carriers and say look, recognizing whatever your legitimate concerns might be as it relates to the manifest that you have, we've got to work out an agreement so if you do have a tragedy, the State Department or the FAA is in the position to communicate with the families of those who may be lost to tell them, yes, they are on there. No, they aren't. We don't need a repeat of that. That's one of the problems.

Can you offer us anything to that?

Secretary **Skinner**. Yes; let me say, shortly after meeting with the families of PanAm 103 victims and listening to some of their concerns, I sent a letter to the ATA asking them to examine the procedures that are used in times of crisis to manage the problems that victims' families have. The ATA, to their credit, assumed that responsibility and established a task force. They have begun to work on an industrywide program that will ensure that we do not have the failures that occurred after PanAm 103. They have been working with the State Department and I met with Secretary Baker earlier this week to discuss that. I am optimistic that we are very close to an agreement between State and ATA on that issue. I believe however that as long as the FAA and the State Department are comfortable with the program that is implemented, it doesn't really matter whether it's the State Department or an industry task force that's responsible for informing the families. What matters is who has the resources and information available to communicate officially.

I think we will have before long, agreement and a program underway to make sure that a special task force immediately arrives on the scene, interfaces with FAA and the State Department, and is the central depository of information for dissemination and for the families. I'm optimistic because—this is an area that I know you are familiar with—Secretary Baker and I have reached agreement on the placement of additional security personnel in Europe. They will be placed in various parts of Europe to cover not only Europe but the Middle East. We have reached an agreement and it is consistent with the numbers that we had initially requested, with the exception of one where we need governmental approval which we expect shortly. We have the approvals in place and these people will be in place this year.

Senator D'AMATO. That's welcome news. Let me leave you with this thought. One of my observations is that although on a chart it may not seem as important, I have detected a great sensitivity on the part of family members who find out they may have a loved one who has been killed, particularly where we might suspect sabotage, and that if the onus shifts it becomes more of a governmental obligation. I just want to ask you to think about that. I've detected with almost unanimity of these families—and obviously there are some people tremendously distraught and some have a thought that maybe they were warned when they may not have been or slighted. Given the emotional character of receiving these kinds of tragic news, we have to think about it in light of where there is an accident, where a plane is blown up, et cetera, where people are looking for a government official, could be State Department, et cetera, to give them that information. I ask you to think or factor that in any agreement that comes out.

Secretary SKINNER. Let me observe that it's really two problems. It's No. 1, a problem of: was my family member on the plane. The second is the following up that involves interfacing with that family for the return of the body, traveling to that country for purposes of burial and returning information regarding the belongings that may have been recovered. So it's two different problems.

I would like to be sure that if something happens, and heaven forbid that it does, the information will be accurate, and that there will be competent, qualified personnel to analyze the information and communicate in a sensitive way. Frankly, I am not overly optimistic from everything that I've seen that the Government can do a better job than the private sector but I think some Government approval or authorization has to be there. I will get that.

AVIANCA AIRPLANE CRASH

Senator D'AMATO. Let me return if I might, to another tragedy that took place, the Avianca flight from Bogota, Colombia. It would appear from all reasonable accounts that that certainly was an accident that could have been prevented. That in itself creates a real tragedy. Let me ask you if you might share with us information as it relates to what the FAA has been doing to ensure that the pilot to controller communications are improved, especially regarding the status of aircraft fuel reserve and foreign carriers as it relates to language, et cetera. What recommendations have you implemented and what further study are you conducting?

Secretary SKINNER. As you know I'm familiar with this problem not only as Secretary but as somebody who flies in the system. The magic word for controllers——

Senator D'AMATO. Buzz word?

Secretary SKINNER. The proper terminology is the word "emergency." Any pilot who uses "I am declaring an emergency" receives No. 1 priority in the system and the entire aviation system in that area is diverted. No. 1, diverting all other traffic, and No. 2, managing that aircraft in an emergency situation to the safest possible destination. That word was not used by the crew of the Avianca flight. There is clearly an indication it should have been. The NTSB this week has recommended that the FAA reaffirm with pilots all over the world what the proper terminology is, how one should properly define his situation for the controller, and what the controller should do if, in fact, he doesn't get that information but suspects that maybe he should have received it.

It is also clear that, had the airplane made a proper instrument approach to minimums at decision heights on the approach at Kennedy, that the chances are substantially better than 50 percent he would have seen the runway and would have been able to land. The unevenness of the approach which caused the missed approach and then the failure to declare an immediate emergency at that time, are the factors that are currently being analyzed by the National Transportation Safety Board. The profile of the approach was less than an absolute precision approach. Airplanes in front of and behind that Avianca airplane did land in about the same conditions and, while there were a couple of missed approaches, a majority of airplanes got in. One of the missed approaches was caused because the Avianca did a missed approach.

Therefore, preliminarily we have adopted and implemented the NTSB recommendation to strengthen the education of people flying into the system as to the proper terminology and information. I'm optimistic that we will have that. It is a tragedy and, it's even more tragic because, had the proper words been used, there might have been a different outcome.

ALTERNATIVE FUELS

Senator D'AMATO. Mr. Secretary, I'm only going to touch on one other area. I'm pleased that we have had this opportunity to discuss issues. We usually only have 4 or 5 minutes. I hope I'm not accused of not being interested in clean air. That's a necessity that has taken the members from today's subcommittee hearing. Otherwise I'm certain that all the members would have been here. I have one other question and I have a number of questions until the chairman comes back which I'll ask on his behalf.

I've long felt that alternative fuels, especially in congested areas, is something that we should be doing more about. I've been stuck behind diesel buses in various cities as you have, in the city of New York, and it's criminal to see us particularly in municipalities having their vehicles spewing forth these toxins and pollutants that are so visible in every way and so discernible. It almost makes it a joke when we say that now we are going to come to industry and others when those of us in government have an opportunity, I think, in municipalities, et cetera, public transportation in particular, to do something in this area. I have been very frustrated over the years in attempting to get, for example, the MTA to respond.

That relates to the local authorities. For example, they now say they're trying to get some natural gas buses but the Tri-Borough Bridge and Tunnel Authority won't give permission for natural gas to go through their tunnels. It seems to me that's nothing but just attempting to beg the question. There's no danger in natural gas being used. This is the kind of nonsense one has to put up with.

What methodologies and what emphasis does this budget place on these programs of alternative fuels, if any?

Secretary SKINNER. First of all, the President's budget and his clean air program try to give as much flexibility as possible to enable the automobile industry and the oil industry to come up with alternatives for clean fuels and to take care of the problems of emission. I think it's also fair to say that we have been in the forefront in attempting to work with transit operators in coming up with new programs. We have in the UMTA budget a 10-percent discretionary grant funding that will be available to transit operators for extraordinary costs associated with the new Federal requirements. We think that this program will allow mass transit organizations to apply for grants and be funded as they begin to implement the clean air legislation.

That also applies to the American's With Disability Act because there will be a number of things necessary for the implementation of that act. We do have a substantial discretionary amount that will be available to mass transit for the implementation of those programs.

Senator D'AMATO. On behalf of Senator Lautenberg I have a number of questions. Let me start them. Maybe he'll revisit them. He'll be here shortly I've been informed.

PASSENGER TICKET TAX

You've called for an increase in the passenger ticket tax from 8 to 10 percent. This estimates an increase in revenues from $600 to $900 million. The question is, why have you called for that increase and will those dollars be placed into the operating budget or will they go into a trust fund? If we put them into the trust fund and can't use them, what benefit?

Secretary SKINNER. The biggest single frustration except for aviation security in international aviation is my inability to explain the trust funds. Each of them is different as you know. The aviation trust fund has a substantial balance because, for a period of time, we have been prohibited by law from applying trust fund user fee revenues to the operations of the FAA. If, in fact, we were allowed to fund the operations as well as the capital programs of the FAA out of existing trust fund revenues and balances, we would see the balance in the trust fund decrease substantially. We believe that 85 percent of the FAA's budget—operations of the FAA as well as the capital programs—should be funded out of the user fees in line with the 85-percent nonmilitary usage formula. We have been unsuccessful in convincing the Congress that we should quit relying on general revenues for the operation of aviation systems and should rely on user fees.

I am encouraged somewhat by the comments of Senator Kasten and others who have indicated to me that user fees and the whole trust fund issue will, in fact, be dealt with by the Congress this year. I think in the case of aviation it has really been form over substance and the increases in our aviation budget for the FAA are much greater than the increase in the ticket tax.

Senator D'AMATO. Let me if I might before turning the meeting back over to the chairman, ask you—I know you have thought about this. I was going to ask you to think about this, but it would seem to me rather than have this kind of contention which we've had and I think it's going to bust one way or the other as Senator Kasten said, we try to come to some resolve. You know whenever you put forth compromises, you're shot from the left and the right. What about, if we are looking to eliminate the necessity for funding the FAA out of general revenues or at least programs, et cetera, what about exploring then a mix of funding which would involve greater utilization of the trust funds as well as then the user fees and in that manner I think you might have a more receptive Congress?

Secretary SKINNER. I think basically that's what we've attempted to do in this year's budget, because we have suggested that we ought to increase the percentage that operations are funded from the trust fund. We've tried to do that. The problem is that the Congress has not moved to the degree necessary in my opinion to get most of that funding. I just think it's a basic mistake, when you have a user fee, to fund or attempt to rely on general revenues which are very scarce and have to be used to address all kind of problems that have no user fee options. It is a mistake for us not to maximize the use of user fees and thereby eliminate the need for us to compete with the crises that occur year after year for general revenues funds.

MASS TRANSIT FUNDING

Senator D'AMATO. One more pitch. We really need the dollars as it relates to mass transit that have been cut and cut and cut year after year after year and, if other areas of the budget had taken that kind of discipline, we wouldn't have this problem. I'm not asking for a response. You know back in 1982 I had proposed legislation which provided that one penny of the gas tax with those revenues derived go for the use of mass transit. The fact is we don't even get the full benefit of that one penny at the present time. I'm just suggesting that this really is a situation that becomes quite critical and I just leave it with you at that extent. I understand the constraints that you're under but it just seems to me that that's an area that we should not attempt to eliminate. They are in desperate need in urban centers as you know.

Secretary SKINNER. If you look at this year's budget over last year's budget, you will see that there has been some movement.

Senator D'AMATO. Oh yes. It was not nearly as Draconian as in the past.

TRUST FUND SURPLUS

Senator LAUTENBERG [presiding]. Thank you, Senator D'Amato. I appreciate, Mr. Secretary, your staying with this while we got through the caucus on clean air. You'll read all about it in the paper.

The balance in the trust fund that so many look at, salivating over this enormous surplus and thinking of ways to get their hands on it—is there truly, based on the plans and commitments, a surplus in the trust fund that is unneeded or uncommitted in any way?

Secretary **Skinner**. I assume you're talking about the aviation trust fund.

Senator **Lautenberg**. Yes.

Secretary **Skinner**. The answer is it all depends on how much of operations you're going to fund out of the trust fund. If, in fact, we fund what I think is a reasonable percentage of expenses, then the trust fund balance basically disappears. If you look at the outyears and the commitments that we have made for the outyears, you will also see between 1982 and 1989, we've outlayed $35 billion for the FAA and $20 billion has been collected in user fees and deposited in the trust fund. We still are paying for operations and capital for aviation out of the general revenues. But because of the penalty clause, we haven't gotten a proper allocation.

Senator **Lautenberg**. But isn't it fair to say that this isn't idle money lying around without a need to be used in the development and expansion of the aviation system?

Secretary **Skinner**. No; there's no question that if you look at our outyears budget, there are substantial reserves especially in the implementation of the NAS plan.

Senator **Lautenberg**. What does that do to the conversations that exist around the country about moving the trust fund off budget, the implication being, well, these guys aren't using the money and we ought to move it off budget because it will therefore be committed earlier.

Secretary **Skinner**. It would do absolutely nothing. What they think is by moving it off budget, that the expenditures would occur, when on budget it wouldn't and that's not the case. The case is very complicated but it basically relies on, as I said, what the commitments are, who is going to pay for them, and whether they're going to be paid from trust fund or general revenues.

Senator **Lautenberg**. One thing that I know we agree on is that it's essential in a country the size of ours, with the nature of the development of our economy, to have an aviation system, an aviation system that meets the safety and efficiency requirements of the volume that presently exists and we believe will continue to grow. That means new airports, more concrete, more taxiways, and it certainly means the implementation of technology that is: (*a*) available now; and (*b*) will be available in the years ahead.

Because to try to continue expanding the manual intervention necessary to make the system operate now isn't, frankly, in my view—and you and I have a background in computers and technology—isn't the way to solve the problem. We've got a lot of work to do to have our aviation system keep up with the needs of the country.

Secretary **Skinner**. I agree with you totally. I would add that I am convinced that, if we can properly fund and implement it, we will be developing technology by American engineers, American computer people and manufacturers, that will be available for export all over the world. We are making a real investment in the economy of this country in two ways. No. 1, by making a more efficient system within this country and, No. 2, by creating state-of-the-art technology that can be exported all over the world.

OILSPILLS

Senator **Lautenberg**. I know that you did spend some time with Senator D'Amato on oilspills, but I want to get back to it, because it's a very troublesome area for my State. I've been up to Alaska. I was up there within a couple days—you probably got there a day or two ahead of me and I was up within 4 or 5 days of the Valdez accident. It seems that things get worse. If I look at the last 3 years, the number of oilspills in the New Jersey area has almost tripled. We had 117 in 1987, 158 in 1988, and 316 in 1989. Based on the extrapolations from the spills that we've had in January and February, we could have almost 400 by the end of 1990.

Can we stop these spills?

Secretary **Skinner**. No. 1, we can't stop them. The more tanker movements we have, the more risk of spills we are going to have. Senator D'Amato and I had a dialog while you were in the Clean Air Committee about what will happen with the oilspill bill and the double hulling requirement, if in fact the transportation system or network is changed. It's fair to say the more tanker movements we have, the more risk of spill we incur. We are not going to be able to stop spills.

A vast majority of spills are cleaned up by the industry or the operator within a short period of time. It's important that we keep that responsibility on them. We've got to be able to respond quickly. I would point to the spill at Huntington Beach and what happened there. It was a major spill. British Petroleum stepped up to the plate quickly, so to speak. They implemented with industry support a major cleanup effort and the beaches were opened last weekend or are expected to be opened shortly. Literally in 2 weeks a major spill has been cleaned up with minimal environmental impact.

Senator **Lautenberg**. One thing is for sure, that there are things we can do to reduce the incidence of spills. You and I both looked at the vessel tracking system, and frankly, I was surprised when I was in Valdez, AK, that the Coast Guard did not have in place an operating system that could find the channel, which was fairly wide. Therefore, they were robbed of the ability to say to the skipper, to the vessel operator, you're outside the track by a significant measure—a couple of miles, a 5-mile or so track. When I asked the operator, he said that program has not been working.

We know that there are things that we can do to make the incidence of spills less likely. When I was up twice to Alaska, the second time I was up there they were making sure that these tankers didn't stray. If it made sense then, maybe it makes sense as a regular operation. But it is certain that we can reduce a number of incidents and we'll discuss this at the Coast Guard hearing, Mr. Secretary. Also, by having a greater spread of response teams around the country, giving them a chance to get at these things in a quicker fashion, we can control the damage that results. It's my understanding and, subject to correction or information the staff has, that the response team that handled the Bayonne spill had to come from Alabama. It's a long way to go.

FUNDING STRIKE TEAMS

I'm curious, Mr. Secretary. Why aren't you requesting funding for these new strike teams, the equipment, the personnel, R&D programs for the oilspill problem?

Secretary SKINNER. We have equipment requested for the current two strike forces plus one additional strike force. What you'll find, in all of these spills, is that we take the two strike forces and move personnel from both that are available to the spill. We don't get hung up on the geographical boundaries.

Senator LAUTENBERG. But it takes time.

Secretary SKINNER. Yes; but our people were on the scene within 33 minutes of the spill and the strike force was on the scene within several hours. The major responsibility for spill cleanup still remains with the industry in the first instance and with the operator responsible for the spill. I believe that responsibility should still be there. To let them off the hook and assume the Federal Government is going to take care of their problem is a mistake. We've got to make sure we've got a mechanism in place that manages that industry response and insists on it quickly and, if it doesn't occur, is ready to federalize. The industry has been taking additional steps as a result of *Exxon Valdez* to assure the safe transit of traffic out of the Valdez harbor.

Senator LAUTENBERG. But we have to have people to audit the industry's response plans, to audit the fact that they're in place, even though it's required by rule, they may not necessarily be there as the question arises in Valdez. The industry saw this stuff pouring out. Did they have the plans in place, did they have the people? Obviously we have to have a supervisory role in there.

Now, there is an oilspill bill in process. I guess it's in conference at this point.

That's going to require some funding. I would hope that you'll consider making sure that the Coast Guard—we can argue about the division of responsibilities—but since they are the final court of last resort or perhaps first resort, that they have the facilities and personnel to do the job.

Since many of the new requirements for the Coast Guard are identical in the House and Senate bills, does it really make sense not to request the funds in your budget? Are you expecting a Presidential veto by any chance?

Secretary SKINNER. On the oilspill bill?

Senator LAUTENBERG. Yes.

Secretary SKINNER. It's too early to tell where we are, but I'm hopeful that the committees will agree to requirements so that we won't have to look for a veto. There are several key issues that remain, the funding mechanism and the role the Coast Guard is going to play and when they're going to assume that role and how that role is going to be funded. Obviously, until that bill is completed we won't know the answers to that. It may be necessary to adjust the budget. We feel very strongly that if you were to fund all the new responsibilities that are placed on the Coast Guard in the oilspill bill, out of the liability fund, depending on the extent of spills, the fund wouldn't grow.

Senator LAUTENBERG. That's right.

Secretary SKINNER. It's a very major problem and the Congress and administration must deal with the additional responsibility they place on the Coast Guard and how that's going to be financed.

OILSPILL BILL COST

Senator LAUTENBERG. Do you have any estimate of the cost for manpower that might result from this oilspill bill? Have you had a chance to kind of give a forecast or an estimate of what might be involved in developing resources?

Secretary SKINNER. The Senate version is estimated to cost $117 million over a 3-year period in 1990, 1991, and 1992. The House bill would be $100 million and the DOT alternative would cost $75 million. We are talking anywhere from $75 to $117 million for additional responsibilities placed on the Coast Guard as a result of the oilspill bill and we've got to figure out a way to pay for them.

Senator LAUTENBERG. That's coming around the corner. Now, do you expect the conference on this soon? Would you be prepared to send to the Congress a supplemental budget request for money to bring these requirements up to date?

Secretary SKINNER. I'm going to have to discuss this with OMB. I'm not going to let the U.S. Coast Guard have additional responsibilities of this magnitude without having a funding source for them. We'll have to deal with it. I think the administration, because they're so totally committed as they are to this issue, is not going to put additional responsibilities on the Coast Guard and not fund them.

Senator LAUTENBERG. I don't think that's reflected in the 302(b), and I hear you say that you're not going to let the Coast Guard take on responsibility without having the funding. I assume that doesn't mean we are going to get into a debate about where the Coast Guard responsibilities lie.

Secretary SKINNER. First of all we have to define the responsibilities. No. 2, we have to look at the options and, No. 3, we have to find what ways we can use to finance them.

Senator LAUTENBERG. But you would agree, wouldn't you, that the protection of environment reigns supreme here and that we are not going to wait, are we, until we define responsibility right now? We have said to the Coast Guard you have the capacity to federalize these spills, to get going on them, and I assume that you as the Secretary of Transportation would encourage them to go ahead and not permit any debate between industry and the Coast Guard to delay the cleanup process.

Secretary SKINNER. Senator, if a spill needs to be federalized, we will do it. We federalized the one in Bayonne. We didn't federalize the one in Huntington Beach because British Petroleum put together a response that got the beaches cleaned up. Every situation is different. The problem that I identified when you were at the clean air conference is that we have $15 to $20 million in the fund that we would use to federalize the spill. How do I put 12,000 people in the field and contract for 300 vessels and several hundred aircraft and all this equipment if all I have is $15 million? I'd have to come to you immediately for an emergency appropriation, if it was an *Exxon Valdez*-type spill of anywhere from half a billion to a billion dollars, recognizing we might, 10 years down the road, recover it from the spiller if the spiller had a deep pocket. That's why the funds are so important. With the new legislation we'll be able to do that. The current approach to oilspills is to make industry take responsibility and to federalize when they don't take responsibility, or do, but aren't effective, and we are ready to do that—we've done it as recently as last night.

Senator LAUTENBERG. But the timeframe for decisionmaking is fairly sensitive. Things have to be ready to go. In the spill in Bayonne the captain of the port asked for the help of the Coast Guard's Atlantic strike team in the early morning. Late that night they still hadn't arrived. Back in 1988 you eliminated the only strike team on the east coast.

Secretary SKINNER. I did?

Senator LAUTENBERG. They had to come from Alabama. If we only could have reduced the timeframe. New Jersey had another spill a few weeks ago from a pipeline there, and this buildup in a very sensitive area where we have precious little natural resources to rely on makes quite a difference. The type of response and adequacies of response is a major factor. There is strong feeling building here, as I'm sure you heard from my colleagues, to get on these tasks as quickly as we can.

Now we have invited Senator Adams here to ask a question. And I have one question.

[Pause.]

Senator LAUTENBERG. Senator Grassley has a pressing engagement, so he will speak first.

STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. I have my weekly radio program at noon.

Senator LAUTENBERG. Do you want me to do it for you?

[The statement follows:]

STATEMENT OF SENATOR GRASSLEY

Good morning, Mr. Secretary. Thank you for attending this hearing today.

Before I ask my first question, I want to take this opportunity to commend you for the work you have been doing at the Department of Transportation. The Bush administration has been in office for a little over a year. Though President Bush has many shining stars in his Cabinet, the leadership at the Department of Transportation has been exceptional.

Whether it is being the point man for the unfortunate natural disasters that occurred over the past year, or leading the way with the formulation of a national transportation strategy, you have shown yourself to be aggressive and effective. I commend you for your concerted efforts.

AVENUE OF THE SAINTS PROJECT

Senator GRASSLEY. I want to visit with you one question and then I'll submit the others. I use the Avenue of the Saints as an example. I'm not focusing just on the Avenue of the Saints because I know there are several other proposals like that around here. We are going to be completing the interstate system so, in light of projects like Avenue of the Saints, in light of the fact that the interstate system is about complete, where do you see the future of the development and the preservation of surface transportation going and specifically is this type of project using the Avenue of the Saints as an example, part of the Department's plan for the future after the completion of the interstate system?

Secretary SKINNER. First of all, our major objective is to protect the investment we have in the interstate system. Any surface transportation authorization we propose would be to protect those systems of national significance.

No. 2, projects like the Avenue of the Saints and several others all over the country are under review and we haven't had a cost feasibility study or volume study. I think it's up to the Congress and the administration to decide whether, after protecting our investment in the interstate, we are going to have a highway program of national significance. If in fact we are, and there are a number of people who argue we should, then they're going to be required to come up with funding sources for it and establish priorities just as we've done in surface transportation acts in the past.

I would hope as that process goes forward projects like the Avenue of the Saints and others would be considered. There are a number of projects that will not be completed in the interstate program that are going to be subject to the same kind of review as that of the Avenue of the Saints. I have met with the Iowa, Missouri, and Illinois departments of highway in Quincy, IL, and when that project was discussed. Those three States are working on it. They will resolve many of the difficulties between the three States. As I told them in Quincy and I'd say to the committee obviously if the States of Iowa, Missouri, and Illinois and Wisconsin or Minnesota come together on an important project like that and their senators and congressmen are supportive of that project, that will carry great weight not only with the Congress but with the administration. We are just not at that point now.

Senator LAUTENBERG. Senator Adams.

Senator ADAMS. Mr. Secretary, it's nice to see you again.

Secretary SKINNER. Nice to see you, sir.

PUBLIC TRANSIT FUNDING

Senator ADAMS. In a recent statement issued by the Department of Transportation you said the most prominent shortcoming of the U.S. transportation system are urban/suburb congestion, lack of good alternatives to the automobile, and associated environmental problems. Now, I agree with you. Let me add that in my own State of Washington, the Puget Sound's I-5 corridor is a perfect example of what you're saying in that quote. I have made this a top transportation matter in my office as has the Governor of the State and the other agencies in the State. In this regard, DOT support of our recently constructed downtown Seattle bus tunnel provided critical assistance. My question to you, Mr. Secretary, is this: With your new policy plan to be issued soon, do you foresee a strengthened commitment by DOT to expand public transit services that serve communities like those along the I-5 corridor and, if so, how do you expect to do it?

Secretary SKINNER. The question I would suggest can be broken out in two pieces. No. 1 is a concept. There is no question that we think that urban transit systems can be effective alternatives. No. 2, the program as currently constructed does not rely enough on State and local sources. The States come to Washington with hat in hand but don't come up with a substantial local share. That, to us, many times demonstrates a lack of commitment for State and local funds.

I believe, as does the administration—and we had this debate earlier this morning with both Senators Lautenberg and D'Amato—that there has to be a greater local responsibility in funding share. Most of those programs were funded on a priority basis based upon the project and the fact that the local share was very substantial. Local funds are being raised all over this country for mass transit projects and we've got to encourage that. In some cases we are talking about private sector projects with private investment and we've got to encourage that. We are not going to be the major funder, especially at the 80-percent range, of mass transit programs in the future.

With that in mind, the Seattle program as you know is a very major program. We have been supportive of the bus program in Seattle in the past and it is a very effective program as you know. It's too early to tell as we go through the reauthorization process how Seattle will fare. I saw your Governor at the Governors' conference. He feels very strongly on this but I urged him and others that the States have to come up with a greater local share.

ALTERNATIVE TRANSPORTATION

Senator ADAMS. We have a gas tax before the legislature at the present time. My question is: Should we be looking at bus on freeway and unrestricted lanes or should we be looking at some type of light rail transit? I've been through this same process that you're going through as a Secretary of DOT all over the country, and what I'm trying to get a sense from you so I can work with our local people in terms of what we should be considering in terms of mass movement of people to assist the automobile in those areas where the automobile is becoming nonfunctional. The car can't move on the highways that we have. I don't think HOV lanes alone are the answer.

Secretary SKINNER. Let me say that we do have a good working relationship between Seattle and the Federal Highway Administration. I have not focused on the Seattle project in depth but I will ask my people to do so and get you a written response back.

[The information follows:]

The Washington Department of Transportation (WSDOT) and local agencies, especially the city of Seattle, have been leaders in promoting and implementing projects to maximize the use of the highway facilities, without resorting to major new construction projects. High Occupancy Vehicle (HOV) lanes have been incorporated on shoulders of existing highways and will be included as additional lanes on most urban Interstate highways in Seattle.

Specifically, system improvements on Interstate 5 are proceeding as fast as funds are allowing. the Federal Highway Administration (FHWA) is working closely with WSDOT on several projects under design or in planning. For example, projects include a truck climbing lane southbound at South Center and added HOV lanes north and southbound near downtown Seattle. Ultimate plans include new HOV lanes from Tacoma to Seattle, ramp metering, additional park and ride lots, traffic surveillance and driver information systems.

Many improvements have already been completed and represent a major commitment to reduce congestion on I-5 as well as in the entire Seattle area. Forty lane miles of HOV lanes have been completed out of an ultimate system of 120 lane miles. Freeway management improvement include ramp metering, advisory radio, traffic data collection stations, closed circuit TV for monitoring and incident detection, and variable message signs. Bus operations have been enhanced by 128 park and ride lots and Flyer stops along the Interstate. New transit tunnel and new transit center and park and ride lot are under construction and will further enhance those services.

High capacity transit, whether light rail or express bus, is not the complete answer to congestion and certainly is not the short term solution. WSDOT and the local transit authorities are pursuing interim highway and transit strategies as funds are available. The FHWA has cooperated and will continue to assist the WSDOT and the city of Seattle to identify and implement effective long and short term solutions to the area's congestion problems.

SECURITY SURCHARGE

Senator **Adams**. Thank you very much, Senator.

Senator **Lautenberg**. Mr. Secretary, under existing authority, a domestic carrier may impose a security surcharge on each ticket. I wondered whether you know to what extent they use this authority and which of the airlines do and whether they—what they do with the money they get.

Secretary **Skinner**. No. 1, as of 1987 the airlines do have the authority to levy a security surcharge of up to $5 on international flights. PanAm, TWA, American, Continental, and Delta impose the surcharge. The law doesn't require an accurate reporting of those funds. At our request the ATA has begun a review and our preliminary review indicates that the airlines are spending more money on security and in-house security as a result of FAA and DOT requests than they are taking in through the surcharges. The Department has authority under section 407(a) of the Federal Aviation Act to institute investigations and require reports to determine compliance with FAA regulations. In addition, section 403 of the FAA Act states that all information on rates, fares, and charges must be available for public inspection.

Senator **Lautenberg**. You say the Department does not have the authority to monitor the collection of this surcharge.

Secretary **Skinner**. Right, but the industry, recognizing the importance of this, has begun to gather the information and preliminarily it looks like they're spending more money than they're taking in from the surcharge.

Senator **Lautenberg**. Would there be any value to having the ability to look it over? Is there an obligation if they collect those funds—and indications are that they use more than they collect—but are they under any obligation to use those funds for specifically identified security measures, or is it just assumed that as part of their normal operations they're going to be spending a lot of it on security?

Secretary **Skinner**. I think it's a supposition. The real key is to make sure the airlines have enhanced security. If we assess the security plans, if we are comfortable the airlines are doing everything they can, and if we are satisfied that the moneys being spent on security are greater than the amount of moneys being collected, it may not be necessary to implement some fancy reporting system which is going to require another 20 bureaucrats to keep track of.

WORKLOAD IMPROVEMENTS

Senator LAUTENBERG. Knowing the efficiency with which you operate, maybe you can reduce that to one computer.

Secretary SKINNER. Twenty bureaucrats can run the one computer.

Senator LAUTENBERG. Things have changed.

Secretary SKINNER. Yes, they have. The third frustration I have is how long it takes to get things done. When I started as Secretary, we had several hundred rules that had been pending for 2 years or more. We have put a very accelerated process on rulemaking and have reduced our inventory of old rules substantially. I'm optimistic that decisions are being made quicker than they have been made in the past but it is still frustrating. It takes too long.

Senator LAUTENBERG. I'm not surprised and I'm encouraged by the fact that someone of your ability and of your interest is working on those problems. We need that throughout government. Part of the problem is the mix between temporary appointments and those who are career, not in any way negating the temporary appointments. I know in FAA it's been a belief of mine that that job ought to be professionalized. That doesn't suggest that Admiral Busey isn't the right guy, but I would like to see someone in that position who is there by virtue of their performance and able to stay there however long it takes to get the job done, just like you would the CEO of any corporation.

Secretary SKINNER. I would only say that Admiral Busey came from career aviation ranks. No. 2, he's doing a splendid job by every measure and, No. 3, my challenge is going to be to keep him there as long as I would like to keep him there. It is a very tough job, very time consuming, very exhausting. In talking to previous administrators, in most cases they have left not because of a change of the administration but because they were worn out. We've got to structure the job so that we don't wear them out and we can keep them there as long as possible.

Senator LAUTENBERG. I hear all good things, too. But even you are limited to 8 years at the most.

Secretary SKINNER. Let's worry about the next three only.

Senator LAUTENBERG. What I would like is someone in that job who can see a system through its planning, coordination, implementation, and operation. It's very hard to get that in long-range programs.

Secretary SKINNER. I would only say, as you know, Senator, in the procurement area we've gone from the $200 million procurement to a multibillion-dollar procurement. Any time you expand procurements it does take time to develop expertise. We are changing somewhat the responsibilities now. Admiral Busey has put into the structure a procurement czar which will help, and he's got highly technical people in the management of these programs.

Senator LAUTENBERG. I said you were limited to 8 years because I think even a Democratic President might choose to have you on.

Secretary **Skinner**. Maybe you changed to independent and changed parties here today, I'm not sure.

HIGHWAY BILL

Senator **Lautenberg**. No; I'm staying independent.

I wanted to ask a couple of things about the highway bill. In your June 1989 report that was the status of the Nation's highways, bridge conditions, and performance to address the backlog of accruing infrastructure needs, $5 billion a year will be needed for bridges and $34.5 billion for highways. Yet your obligation ceiling request for the Federal aid to the highway system is only for $12 billion. How does that square, Mr. Secretary?

Secretary **Skinner**. Well, the obligation limitation is, as you know, $12.013 billion. I do believe we have made some progress and increased expenditures have occurred. We don't have the level of investment needed to meet all our capacity. As we said in that report, congestion will continue. We believe that there is sufficient obligation authority to continue the interstate construction, but I would assume in the surface transportation reauthorization we are going to be looking at obligation levels somewhat different than what we have today.

At the same time, we are seeing all over this country an increase in user fees at the State and local level being deployed into highway infrastructure. That, to some degree, is helping solve some of these problems.

USER FEE INCREASE

Senator **Lautenberg**. Is there a point at which the administration might propose increased user fees? It does in other areas of transportation. We discussed that earlier. Why is it so hesitant to raise the necessary revenues in the highway area to deal with the needs there.

Secretary **Skinner**. I don't think there's any question that there is a commitment to deal with the infrastructure issues. How we get there is still open to debate. I believe strongly that we've got to have a much greater local share. With the gas user fee structured the way it is today at the Federal level, there is an opportunity for State and local governments to raise that in user fee at the State and local level. Many of them have done so. Eighteen tried last year and most were successful. It's been raised 33 times in the last 2 years. With this window of opportunity, States all over the country are taking advantage of it. You heard Senator Adams talk about it. There's one pending in California. If the Federal Government raised the user fee, I think that would prevent the local levels from doing so.

GAS TAX

Senator **Lautenberg**. As we look around at other developed nations, do we see our gasoline prices different than theirs in terms of what portion goes to government and what that's done to mileage travel? Is there any indication that countries such as Germany and

France do a lot less automobile travel than we do on a proportionate basis?

Secretary **SKINNER**. I think, as you know, every State and every country approaches this a little differently. The gas tax or user fee in Europe is much higher than it is in this country and they rely on a completely different system. That traditionally has been the subject of discussion in the reauthorization process which, as you know, will occur next year.

At this point, however, it appears to me that if we are generating additional funds at the State and local level, that were heretofore unavailable, we are increasing the investment in infrastructure and it's more form over substance to argue about who collects it. It really doesn't matter to me as long as it's being collected and being used for infrastructure.

HIGHWAY TRUST FUND

Senator **LAUTENBERG**. Obviously, we've all heard the debate about budget and the influence of trust funds on evaluating the deficit. What about the highway trust fund? Has that contributed to the—I'd like to use the word fictional, but I feel polite this morning—to the perspective on the deficit?

Secretary **SKINNER**. The trust fund issue is a real frustration. The question is: Is there a surplus as defined by everybody? The General Accounting Office pointed out to your committee last May that the cash balance of $10.5 billion is needed to pay commitments to the States and is really not a surplus. In fact, at the end of last year the commitments to the States for the programs authorized exceeded the cash balance by $21.1 billion. If no new commitments were made after this year, it would take a year and a half in additional tax revenues to pay for the existing commitments.

As you know, the authorization calls for 2 years of tax collection after the end of the program for this purpose. There is very little left in the trust fund once you take into consideration these ongoing obligations. This message somehow has not gotten across and the people who talk about the trust fund are unwilling to look at the obligations that have been made against it. They just talk about current expenditures.

Senator **LAUTENBERG**. Between you and me in the secrecy of this room, it does contribute—because there is a balance sitting there now—to a different impression.

Secretary **SKINNER**. Right. What it does is help solve a short-term problem on the deficit and postpone a realistic assessment of what our problems are going to be in the long run on the deficit.

TRAINING CENTER IN CLARKSBURG

Senator **LAUTENBERG**. I think it contributes to the confusing picture. I'm determined—I think all earmarked dedicated funds ought to be off budget.

As you might know, Senator Byrd, chairman of the Appropriation Committee, has a great interest in the project area marked by this subcommittee last year, the training center in Clarksburg, WV. This effort has been delayed by some redtape, and I wonder if

I can assure him that you're working on this and that you'll soon have a solution so that the necessary funds can start moving.

Secretary SKINNER. It's a priority I discussed as late as yesterday. I understand not only Senator Byrd's interest, but your interest in this project and we will try to work it out as soon as possible. It's hung up in the legalese of the bureaucracy, but we are trying to see if we can accomplish it shortly.

Senator LAUTENBERG. I'll tell Senator Byrd that he can rely on you to get through the legalese, that he can call you directly on your inside line.

Secretary SKINNER. I can assure you he knows my number.

GASOHOL IMPACT IN CLEAN AIR BILL

Senator LAUTENBERG. I can assure you, Mr. Secretary, he has mine as well.

We have a question on gasohol that's arisen with the discussion on the clean air bill. Now, it's got a 6-cent exception from the 9-cent Federal gas tax. If things develop as expected, we are going to be looking at a reduction of about $500 million of lost revenues. Now, the Senate clean air bill contains a provision that could lose, according to DOT estimates, more than $1 billion a year—let me be sure. I don't think the English is correct here or else the reading isn't correct.

The estimate is that, according to DOT, more than $1 billion a year could be lost because of the increased gasohol use.

(A) are you concerned about it; (B) has the loss of those revenues been figured in the budget; and (C) does the administration support that second position?

Secretary SKINNER. No. 1, yes. No. 2, no. No. 3, we've got to find a way to solve the problem, and I assume that would be in the reauthorization process.

Senator LAUTENBERG. So you said you're concerned about the impact, that the loss or potential loss of revenue has not been figured into the budget, and does the administration support figuring these lost revenues into the budget—maybe.

Secretary SKINNER. I wanted you to know that I can answer in shorter than about 2 minutes.

Senator LAUTENBERG. Shall I give you more time?

Secretary SKINNER. No; that's fine. I wanted to prove it to myself, actually.

Senator LAUTENBERG. We have other questions that we would like to submit in writing and so I would at this juncture welcome my other colleague from Iowa, Senator Harkin. Iowa has a great interest in what takes place in transportation and particularly Senator Harkin. So I would ask Senator, if you would ask your question and then close the meeting.

Senator HARKIN. Fine.

Senator LAUTENBERG. Mr. Secretary, thank you very much.

Secretary SKINNER. Thanks for your support over the years.

HIGHWAY REAUTHORIZATION BILL

Senator HARKIN. Mr. Secretary, I know it's late and I apologize to you for arriving late. I want first of all to commend you for working to develop a thorough long-range view of our national transportation needs. One of the things I've learned about on this subcommittee is that transportation infrastructure projects are expensive and they take a long time to put in place. Once they're completed, we've got to live with them for a long time. I think we need to carefully examine our long-term national transportation needs.

It's my perception that there's a great deal of interest in the upcoming highway reauthorization bill that the Congress will consider in 1991.

In all of my years in Congress, I've never seen so much interest, the year before it's even being considered, in an upcoming highway bill. This bill may determine highway and mass transit policies for a generation. With the near completion of the interstate system, the American Association of State Highways and others are talking about what they call highways of national significance. Highways within that definition would receive considerable Federal funding. Do you have any comments on that or views?

Secretary **Skinner**. Let me say the national transportation policy will talk about the importance of systems of national significance. I agree with you. The reauthorization process is something I look forward to with a great deal of excitement and enthusiasm because I think it will be the linchpin of the transportation systems of this country for the next decade and beyond, especially for the Interstate Highway System.

No. 1, as part of that reauthorization, we are going to have to make sure that the Interstate Highway System is preserved. No. 2, we must focus on what additional miles are going to be of national significance and what the Federal role is going to be.

I think that is the process that has got a lot of people interested. It's especially got people in the rural areas of this country interested because they know—and I've indicated to a number of people from States like Iowa and the Dakotas, Nebraska, Kansas, Minnesota, Mississippi and others—that that is their one major bite at the apple. And if those States are able to get together, congressional people, and more importantly the rural Senators in the Senate, they will be able to determine the allocation of funding between rural and urban areas. No. 2, they will be able to have a great deal of influence on what programs will be of national significance and what add-on programs will be built. I think it will be a very exciting process.

I do believe that, given what happened last time or two times ago in the reauthorization act, that it will be a very significant time. The rural areas will be major players. But I think the Senators all think as one. This is one area where they are more than willing to cross party lines to get a collective compromise.

Senator **Harkin**. The Department will be issuing a report next week?

Secretary **Skinner**. The national transportation policy will come out.

Senator **Harkin**. And it will talk about some of these nationally significant projects?

Secretary **Skinner**. Not project by project. At this point it would be inappropriate to do that. It will talk about the systems of national significance and the reauthorization process and the need for greater State and local funding as components of that. So as you go back to Iowa and talk to your outstanding Governor, remind him that we are deadly serious on State and local governments coming up with a greater share of the new funding projects.

Senator HARKIN. I want to thank you for saying the No. 1 priority is protecting the Interstate Highway System.

I'm amazed how much the trucking traffic has increased on those interstates. It's weakened them and the upkeep is really something. The Interstate System has really been crucial to our economic strength, and I'll tell you, I have a lot of pride in it personally. I worked my way through college with transportation construction jobs and I still have a sense of pride every time I drive across a bridge that I helped build. It's kind of nice. It makes me feel like I've got a piece of the action. There is a need, in many rural areas especially, for new national highways. They not only add to our economic strength but provide good employment, too.

We still have a number of corridors between major cities which don't have a quality direct highway link, St. Paul and St. Louis, to state one example.

Secretary SKINNER. Why did I think that was going to be the example?

AVENUE OF THE SAINTS

Senator HARKIN. I believe that if found to be economically logical and if found to be a route that could help to save fuel and time in significant amounts, this so-called Avenue of the Saints and similar highways should be built. Do you have any further comments on these types of projects?

Secretary SKINNER. That came up a few minutes ago; the Avenue of the Saints is a project that's being looked at by a network of three States. I was in Quincy and met with the secretaries of transportation from all three States, Missouri, Iowa, and Illinois.

I think as we go through the feasibility study and the justification, which we are in the process of doing now, because of the benefits to that area, there will be a consensus reached by all those States as to where this highway should be, and how it should be developed.

It will then be up to the States to present to the Department, the administration, and the Congress the justification necessary to have that included in any reauthorization bill. I have seen nothing that leads me to believe that they won't be ready to make a very strong argument by the end of this year. I'm encouraged by the fact that they're not fighting with each other but working together.

Senator HARKIN. They seem to be working together pretty well.

Secretary SKINNER. Very well.

Senator HARKIN. I don't know when they're going to come up with their proposal. Do you know what the timetable is?

Secretary SKINNER. I thought it was sometime later this year. As you know, there are several alternatives, but maybe your staff knows more than I do. I thought it was the end of the year.

Senator HARKIN. My staff says this month.

Secretary **Skinner**. When I was down there I didn't get the impression they were going to make the decision that quickly. Maybe they are.

Senator **Harkin**. I assume it's being done in a professional manner.

Secretary **Skinner**. It is.

Senator **Harkin**. Did they hire some outside source?

Secretary **Skinner**. Yes.

Senator **Harkin**. The question I would like to ask is, If it's found logical to construct the Avenue of the Saints, would you feel it should be a part of the system of highways of national significance; would you be prepared to say that?

Secretary **Skinner**. Not at this point. The reauthorization process is ongoing, and I think it's fair to say that I understand that artery, having been part of the rural outreach sessions that we went through as part of national transportation policy. The importance of interstates and the degree that we are able to fund these nationally significant new highways, will be determined this year as we go through the authorization process. Until that's done, I don't think it would be appropriate for me to prejudge that.

Senator **Harkin**. I understand. I was thinking in the broader context, if such highways are found to be highways of national significance and if, in fact, they do save time and they save fuel and save costs of transporting all kinds of different items, then it would seem to me that it would be in the national interest for the Federal Government to do all it can to make those national highways of significance a reality. I'm all for greater State participation, but you don't mean to say by that there won't be any Federal presence?

Secretary **Skinner**. No, no; there will be substantial Federal participation. We hope there will be greater local participation and we'll have to wait and see how big the program is going to be and what programs are going to be included. But I think the Avenue of the Saints is the type of project, like the Appalachian regional project, that will be discussed at great length during the reauthorization process as well.

Senator **Harkin**. I know we are going to have to set priorities because we are not going to be able to get everything everybody wants. We are going to have to make sure that we prioritize nationally significant highways and that we develop plans for better rural access highways, to ensure that rural areas have quality access to main highways.

RAILROAD LOAN GUARANTEE PROGRAM

A couple of other things: Railroads. Last year Senators Levin and Pressler continued to campaign for the railroad loan guarantee program, the 511 Program. It passed the Senate but was not approved in conference for a number of reasons. I believe there should be a continuation of loan guarantees under the program authorized in the Railroad Revitalization and Regulatory Reform Act of 1976. The program can make a real difference in terms of the number of smaller railroads in rural areas that will be able to survive.

Many new small and regional railroads have been established. Many of those companies were established with very limited operating capital and are paying interest rates higher than they would have been if the companies were in better financial shape. If these companies do not have the funds to maintain and improve their equipment needs, they'll not only become less efficient but probably cease operation. Would you have the Department look at the need for more capital for operation, equipment purchases, and track improvement by some of these newer regional and short-line railroads?

Secretary SKINNER. When we deregulated the railroad industry, we believed that most of these railroads had to survive on their own merits and the administration heretofore has not been supportive of loan guarantee programs of this nature. I must say I haven't looked at it in any depth. I would be glad to do so.

We think that the railroad industry has made significant strides overall as a result of deregulation. They've begun to address some of the problems they have that create inefficiencies and excess costs to shippers and they've got to continue to do so. The best way to do that is in a deregulated environment. I will get back to you on a detailed analysis on that, but I'm not optimistic. I don't want to mislead you, Senator. I'm not optimistic that there will be a major administration change regarding loan guarantee for short-line railroads.

Senator HARKIN. Some of the railroads I mentioned may be operating on the brink, maybe making a little bit of money, but they can't afford, because of the high interest rates they're paying, to improve their service to shippers along the lines. The shippers say, well, we won't use the service. We'll go to trucks. Take a couple of shippers off that line and that's the end of the rail line. If the railroad were able to provide better service, they might keep those shippers on board. It's kind of a catch 22 situation.

Secretary SKINNER. I understand the argument.

Senator HARKIN. If you would take a look at these concerns, I would appreciate it.

Secretary SKINNER. I would be happy to.

USING OLDER AIRBASES AS FEEDERS

Senator HARKIN. I understand there has been a trend to put an increasing portion of the AIP discretionary funding toward finding a solution to the capacity problems at the Nation's larger airports. It's my view that the DOT should be encouraging increased use of the airports that are operating far below capacity. We might be able to reduce the facility costs and improve safety as well. A year or so ago there was talk about using one of the older air bases in Illinois as a feeder airport. Was it, Scott Air Force Base?

Secretary SKINNER. That was called the wayport concept.

Senator HARKIN. Yes.

Secretary SKINNER. That's a concept that people in the FAA were looking at as an alternative. It means if you're going from here to Chicago, you would stop at Scott or Chanute Air Force Base, unload and take a smaller airplane, and not have the transit traffic going through the busier airports. But that concept, while it's still being explored, is not on the front burner. A number of the airlines seem to have some real problems with it.

We have a panel formed to look at its feasibility and we are continuing to look at it. But the wayport as a solution to the capacity problem may not be as vital as the alternative of expanding existing facilities or building new ones. How do you pay for it is the real problem.

Senator HARKIN. It just occurred to me, with all the transit traffic, that using one of those airbases that's not being fully utilized and feeding it in like that seemed to make sense.

Another thing, several years ago when I was in the House, I was involved with an MLS project. One of the reasons I was interested in MLS research and development was that it was supposed to help traffic in places like O'Hare in their approach and landing systems.

Secretary SKINNER. I can give you an update of it quickly. We entered into a contract for a number of category one systems with the Emerson Corp. out of St. Louis. That contract is currently in default. We've defaulted them for cause in the courts. In the meantime we have downsized the MLS program and are looking for some category one systems that will be installed—one in New Hampshire, another one at Midway. We are looking at various alternatives for those systems. In Europe and the Pacific rim, the airlines are very committed to MLS. There is a lot of technology available off the shelf in this country and Canada. A lot of people are optimistic that MLS can provide some additional capacity enhancements.

At the same time we haven't come to a resolution on the frequency splitting problems and whether or not frequency splitting can be done without interference. That will determine just what role the MLS's are going to play in this country. We do have a demonstration to the tune of $15 to $20 million in fiscal year 1990.

GPS SYSTEM

Senator HARKIN. Has the GPS system done anything about overriding MLS?

Secretary SKINNER. We believe that GPS does offer a great deal of assistance primarily in over ocean traffic and on long hauls. We don't see GPS replacing the systems of MLS's, ILS's, VOR's, TACANS, and loran C as they exist in this country on the domestic side.

Senator HARKIN. Is that because of the need for the military to vary the signal at some point if they want to?

Secretary SKINNER. There are some security implications, but more importantly we think the cost of the airplane equipment across the board and the impact of communication requirements, especially two-way transmitting ground links and the cost of those, may not make it as effective an alternative in the near term as it will be on international flights. We believe it offers tremendous opportunity in international aviation. We could avoid some of the situations like KAL 007 and others if, in fact, we had global positioning on a realtime basis. We are looking and moving forward vigorously to implement midocean GPS systems for aircraft with ground-based systems.

Senator **Harkin**. Mr. Secretary, thank you very much again. I've been noticing that you've been getting a lot of good press lately.

Secretary **Skinner**. I hope that's not the lull before the storm.

Senator **Harkin**. The recognition seems to me to be well deserved. I say that unabashedly, openly and publicly. Keep up the good work.

Secretary **Skinner**. Thank you very much.

SUBMITTED QUESTIONS

Senator **Harkin**. We will be submitting some questions for your response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

NATIONAL TRANSPORTATION POLICY

SENATOR LAUTENBERG: What has delayed the release of the National Transportation Policy?

ANSWER: Although we had originally planned to release the policy statement early in January, there were a number of Administration statements and documents scheduled in close succession around the same time, which dealt with similar issues in a broader scale—the President's budget, the State of the Union address, and the Economic Report of the President. In that overall context, it made sense to issue the policy statement after release of the other statements. Therefore, we scheduled the announcement of the Statement of National Transportation Policy as soon as possible after the Economic Report of the President became available in mid-February.

SENATOR LAUTENBERG: When will the policy be released?

ANSWER: The policy statement is scheduled to be released March 8, 1990.

SENATOR LAUTENBERG: What are the cost implications of your policy?

ANSWER: The policy statement is focused on sound principles and themes to guide transportation decisions. Fulfilling the objectives in the policy statement will require investment, but the policy does not set out particular needs estimates or spending goals.

SENATOR LAUTENBERG: Does it call for more federal spending, more state and local spending?

ANSWER: The policy is intended to serve as a framework for spending decisions, but it is not a budget document, or an authorization or appropriation proposal. Additional budget and legislative actions will of course have to follow, to carry out the broad themes and principles in the statement. We recognize that some of the strategies and actions outlined in the policy statement will require additional funding, and we have provided some examples of proposals in the FY 1991 President's budget that already support initiatives in the policy statement, including a 17 percent increase in Department spending for transportation research. Consistent with the policy, the Department is also supporting legislation to reauthorize Federal spending for aviation programs, which includes a 73 percent increase in spending for aviation capital and research over the next 5 years relative to the last 5 years. The policy does not call for particular spending levels by any other party.

SENATOR LAUTENBERG: Does your "policy" call for any more increased user fees such as gasoline taxes and truck taxes at the federal level, or is this simply your way of saying that states should increase their taxes?

ANSWER: The policy does not call for increased taxes on motor vehicle fuels or other truck taxes, either at the Federal, State, or local level. It does reflect the Administration's proposal to increase aviation user fees levied in the form of airline ticket taxes, in order to support higher expenditures from the Airport and Airway Trust Fund for aviation system improvements and capacity expansion. The FAA budget was developed in support of a new authorization act that will be considered by the Congress this year, in the context of an expiring user fee, whereas the FHWA budget request was developed within the framework of the 1987 Surface Transportation and Uniform Relocation Assistance Act. In developing the Administration's proposal for reauthorization of the FHWA program, which is required beginning in FY 1992, we will be considering such issues as the appropriate role for the Federal government as the interstate system reaches completion, the needs for infrastructure repair and rehabilitation, and the appropriate level of resources to meet the needs we identify.

The policy does not call for increased State and local gasoline and truck taxes. It does suggest that the required match for Federal funds within Federal-aid programs for transportation should be increased. In fact, most States already contribute more than the required match on Federal-aid projects, and overall, State and local governments spend far more than the Federal government for roads and highways; the Federal share of total expenditures on the Nation's highways is only about 20 percent. New York estimates that by the end of 1989, the State share of the State's highway construction program was 56 percent, versus only 44 percent for the Federal government. Federal spending has increased year to year, but the State and local spending has increased far more.

Increasing the required State and local match for Federal-aid highway projects therefore could have one of several effects: (1) total non-Federal funding could remain the same, but Federal funds no longer available to cover such a high share of an individual project's costs could be spread over more projects; (2) non-Federal funding for Federal-aid projects could decrease, or (3) non-Federal funding could increase, to cover the same range of projects at the new higher match.

In 1989, 23 States increased their gas taxes or user fees for transportation. The Administration policy to increase the State and local share within the Federal-aid highway program therefore may largely be a reflection of what has already taken place, and is already being supported by State initiatives to raise revenues for highway projects. We commend those State initiatives and hope that the same commitment will continue through the 1990's, as we all must focus resources on meeting transportation needs.

SENATOR LAUTENBERG: How dependent is your policy on the successful enactment of an increased airline passenger ticket tax and the use of passenger facility charges by airports?

ANSWER: The policy statement supports both increased recovery of aviation program costs from user fees and flexibility for airports to levy their own passenger facility charges (PFCs). Total funding to support needed improvements in the aviation system would undoubtedly be reduced if one or both of these initiatives failed. The policy statement itself does not provide specific numerical goals or expectations, but in preparing the FY 1991 budget proposal, the Department estimates that approximately $45 billion in Federal funds will be needed to operate, maintain, modernize and improve the U.S. air traffic system and help airport authorities improve and expand the Nation's airports during the FY 1991-1995 time frame. Of this total, 85 percent or $39 billion should be financed from the aviation trust fund, based on the fact that 85 percent of aviation system used is by civilian users who pay user fees.

The proposal to increase Federal ticket taxes from 8 percent up to 10 percent of the airline ticket price, with corresponding increases in other aviation user fees, is projected to add $623 million to trust fund revenues in FY 1991. With expected growth in air travel, trust fund revenues should increase by $960 million, relative to a proposed program increase of $1.1 billion.

The total revenues generated by passenger facility charges (PFCs) would depend on the number and size of airports that opt to levy PFCs and the level of PFCs they charge. At the 1988 level of enplanements, a $3.00 per passenger PFC at the top 50 airports in the Nation would generate more than $1 billion in annual revenues. This would be in addition to the $1.5 billion in Federal funding proposed for airport grants in the Administration's FY 1991 budget, If airports levying PFCs had to forgo Federal grant entitlement funds, those entitlement funds would be shifted to discretionary funding for capacity and other airport development programs.

Both the increase in user fees and the proposal to allow local PFCs would advance the objectives in the policy statement of increasing reliance on user fees, reducing reliance on the General Fund for Federal aviation spending, and increasing aviation capital spending. Failure to invest now in our air traffic system and in our airports will mean that the aviation system will not able to accommodate as effectively the demands placed on it today or the growth expected in the years to come.

AVIATION CAPITAL SPENDING PLANS

SENATOR LAUTENBERG: What happens to your aviation capital spending plans if these proposals are not enacted?

ANSWER: If current user fees were not increased and the President's Budget request were enacted, the trust fund would be in a $1 billion deficit by 1994. Failure to increase user fees would lead to forced reductions in capital spending or a continuation of past practices of financing an insufficient level of the FAA budget from the trust fund. We believe that the best way to ensure that aviation needs are met is to provide adequate dedicated revenues so that aviation does not have to compete for a large share of general funds with many other high priority national programs.

Failure to remove the prohibition on passenger facility charges would continue Federal limitation on local financing choices for locally conceived projects, and would constrain a potential revenue source of over $1 billion that could be used to expand airport capacity nationwide.

INFRASTRUCTURE NEEDS

SENATOR LAUTENBERG: In your opinion, where are our greatest infrastructure needs? That is, what needs immediate attention—our highways, airspace, airports, transit system, rail systems?

ANSWER: On the basis of maintenance and condition, the highway system and particularly the Nation's bridges should be given priority in allocating funds. On the basis of congestion, both the highway system and the aviation system require attention. Certainly, our ports and waterways, transit systems, and other infrastructure also must not be neglected. They must all be kept in sound condition to support safe, efficient levels of service and performance.

SENATOR LAUTENBERG: The Department of Transportation estimates that intercity car traffic will grow 3 percent annually and airline passenger travel will grow 4 percent annually for the next ten years. Yet the National Council on Public Works Improvements only gave our nation's highways a "C+" and the aviation system a "B-". Does the Administration's budget request reflect its own traffic projections, which suggest even greater stress and strain on the highway and aviation systems?

ANSWER: The Administration's proposed reauthorization legislation for the aviation system for the next 5 years reflects a 73 percent increase in Federal funding for capital and research compared to the last 5 years. Although the Administration has not finalized its highway reauthorization proposal for FY 1992, the proposed FY 1991 budget reflects an increase in capital spending of 6 percent compared to the President's FY 1990 budget. This level reflects an assessment of Federal funding needed to continue to improve pavement condition on the Nation's major highways and meet the most pressing needs across the board. We are carefully reviewing the structure and funding level of the Federal-aid highway program to ensure that the reauthorization proposed for FY 1992 will fulfill the appropriate Federal responsibility for the Nation's highway infrastructure.

SENATOR LAUTENBERG: Given the stress and strain on the highway and aviation systems, will Amtrak be given a heightened role in your national transportation plan?

ANSWER: The policy statement highlights the importance of efficient, safe, cost-effective passenger rail alternatives and particularly notes the potential for high-speed rail service to alleviate pressure on congested aviation and highway systems in heavily traveled intercity corridors. To those ends, the policy gives prominent attention to the prospects for developing advanced rail options such as magnetically levitated trains (maglev) that could carry people at high speeds between cities or between other major passenger origin and destinations, as a substitute for highway or air travel. In fact, fostering development of the next generation of high-speed intercity passenger systems is one of the major research objectives in the policy statement which features renewed transportation research and innovation as one of the six key themes. Consistent with the policy statement, the Administration's proposed FY 1991 budget for Transportation includes a request for $6.15 million in maglev research, to examine the technical details of the various maglev systems, and to determine their economic feasibility for U.S. operation, and the potential for private sector, and State and local financing, based on projected costs and benefits. Transportation demands of the 21st Century will require that we develop technology and systems that provide the mobility so essential to the Nation's continued economic growth while protecting the environment. Maglev may well offer improved transportation, and be seen as a cost-effective solution to automobile and aviation congestion. There is already evidence of considerable interest by State and local governments and the private sector in the new technology, and it is important to encourage their participation and to help foster and shape the U.S. effort in this area.

For the short term, current budget constraints limit the availability of funds for Amtrak's subsidy needs. The statement expresses the need for all parties to work together to achieve improvements in the efficiency and cost recovery of Amtrak operations. The statement recognizes Amtrak's success in attracting increasing numbers of riders, improving service and productivity, and increasing its coverage of costs from its own revenues. The statement identifies a number of proposals for further changes that can help reduce Amtrak's costs and improve its efficiency and cost coverage, including placing Amtrak under state workers' compensation systems rather than the more costly, less predictable, fault-based Federal Employers' Liability Act and requiring States to pay a greater share of the costs of services Amtrak operates at State request.

SENATOR LAUTENBERG: Could this result in an eventual budget request for some part of Amtrak's operations or capital improvement efforts?

ANSWER: We commend the entire Amtrak organization for the improvements it has achieved in the quality, efficiency, and competitiveness of its service. The Administration's primary concern is that we adopt a long-term course that will help Amtrak eliminate the need for Federal operating subsidies and help Amtrak services become more cost-effective. It is essential that we not institutionalize subsidies to Amtrak to support operations that incorporate inefficiencies and cost burdens that really should be corrected. Since 1971 when Amtrak began operations, the Federal government has invested over $2 billion in the development of the infrastructure for Amtrak's high-speed rail service in the Northeast Corridor, plus almost $11 billion in Amtrak operating subsidies (through FY 1989 spending and ridership data). Amtrak's objective is to eliminate the need for Federal operating subsidies by the year 2000. We support Amtrak's efforts to achieve self-sufficiency; however, budget constraints limit the availability for Amtrak's present subsidy needs. The Administration is eager to work with Congress, Amtrak, and other interested public and private sector parties to determine how best to obtain needed capital from the private sector and to make Amtrak services more cost-effective. Consistent with the policy statement, we will continue to promote increased efficiency, service improvements, and cost-effective capital investment in intercity passenger rail operations, and assure recovery of costs of service from passengers and from private, State, and local interests to support operations, capital expenditures and expanded services.

SENATOR LAUTENBERG: Did you consult with Amtrak as you did with other parts of your Department in the development of the plan?

ANSWER: Yes. Amtrak was included from early in the drafting process in the fall of 1989 through the final editing, as a key reviewer and adviser in developing the policy statement.

SENATOR LAUTENBERG: As Congress starts hearings on major highway and aviation reauthorization(s), would this report be a fair gauge of the country's needs in these two areas? If not, why not?

ANSWER: The policy statement does not present estimates of the Nation's transportation capital spending needs, but simply notes that a variety of estimates have been advanced, all of which exceed present spending levels. As noted in the policy statement, a related report to the Congress scheduled to be released a few weeks after the policy statement, entitled the National Transportation Strategic Planning Study, contains current estimates of long-term costs to develop and maintain facilities and services for moving people and goods in the various modes. That report, required by Section 317(b) of the FY 1988 DOT Appropriations Act, presents much more detail on conditions and issues facing the transportation system, and should provide background information that can be used in formulating reauthorization proposals.

SENATOR LAUTENBERG: Secretary Skinner, in your June 1989 report to Congress entitled "Status of the Nation's Highways and Bridges: Conditions and Performance", you report that to address the backlog and accruing infrastructure needs through the year 2005, $5 billion a year will be needed for bridges and $34.5 billion for highways. Yet, your obligation ceiling request for the federal-aid highways system is only for $12 billion. How did you arrive at that figure?

ANSWER: This level reflects an assessment of Federal funding needed to continue to improve pavement condition on the Nation's major highways and an examination of pressing budget needs across-the-board. Compared to the FY 1990 President's Budget, we are proposing a 6 percent increase. The limitation we have proposed is only 1.6 percent less than the limitation enacted by Congress for the current fiscal year and is enough to cover the Federal share of the cost to continue to maintain the physical condition of highways of national importance and to continue completion of the Interstate system.

In previous years, the Budget proposed basing the obligation limitation on "deficit neutrality," that is, total obligations from the Highway Account equal to total tax receipts over the five-year period authorized in STURAA. We did not continue that approach this year because it would have resulted in too low a limitation.

The Federal-aid highway program must be reauthorized for FY 1992, and we are carefully reviewing its structure and funding level to ensure that we will meet the appropriate Federal responsibility for the Nation's highway infrastructure.

SENATOR LAUTENBERG: Do you believe that you are adequately addressing our infrastructure problems?

ANSWER: With regard to highways, our budget proposal is sufficient to maintain pavement conditions. Estimated funding needs to continue Interstate construction and maintain pavement conditions on the Interstate, urban freeways and expressways, and other principal arterials are $8.8 billion in FY 1991. With States maintaining their historic shares, total Federal and State capital investment on these systems under our proposal would be an estimated $8.9 billion in FY 1991. This level of investment would not provide all additional needed capacity (beyond the Interstate construction), so congestion would continue to increase. However, the budget includes $15.5 million for smart car technology R&D to identify solutions to address congestion.

Increased Federal spending has made a difference in pavement conditions. Since FY 1982, when we raised the gas tax for infrastructure purposes, the percent of mileage of Interstate and "other arterials" in poor condition has decreased from 12.5 percent to 7.3 percent in FY 1988. This demonstrates a significant reversal of a negative trend in the late 70's and early 80's.

STATE'S ABILITY TO GENERATE REVENUE

SENATOR LAUTENBERG: The administration's position has been that state and local governments need to do more in addressing capital problems. Yet this assumes that all states have the same ability to generate revenue. Do you think that each state has equal ability to raise the necessary revenue to maintain our national system of interconnected highways and bridges? If not, how would you address this imbalance?

ANSWER: There certainly are differences in the financial capacity of states. They all have the option, however, to use dedicated user fees, such as gasoline and diesel taxes, to raise revenues for highways and bridges. The amount of revenue raised in this manner depends on the amount of motor vehicle travel in the state. The revenue available to a state, therefore, is likely to correlate to some degree with the need. There are certain states, mainly in the west, that do support extensive systems that are not heavily traveled. Under the present Federal Highway program, those states are assisted by receiving more Federal gas tax revenue than they generate.

GAS TAX INCREASE

SENATOR LAUTENBERG: If the administration is bold enough to propose increased user fees in other areas of transportation, why is it hesitant to raise the necessary revenue in the highway area to address the needs there?

ANSWER: The FHWA budget request was developed within the framework of the 1987 Highway Act (STURAA). The FAA budget was developed in support of a whole new authorization act that will be considered by the Congress this year — in the context of an expiring user fee.

We are now developing the Administration's proposal for reauthorization of the FHWA program, which is required beginning in FY 1992. In developing that proposal, we will consider such issues as the appropriate Federal role as the Interstate nears completion, the needs for proper infrastructure repair and maintenance and the appropriate level of resources over the next several years to meet the needs we have identified.

SENATOR LAUTENBERG: Because there exists a cash balance in the highway trust fund, many groups are calling for its being moved off-budget. What has been the recent income history of the trust fund? Has it contributed to lowering the deficit?

ANSWER: For the latest four years with actual data available, highway account tax revenues have averaged $12.8 billion annually. For the same four years, highway account outlays have averaged $13.7 annually. Actual data are shown below:

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($ Billions)

	1986	1987	1988	1989	Total
Tax Revenue	$12.3	$11.8	$12.8	$14.4	$51.2
Interest	1.1	0.9	0.8	0.8	3.6
Income	$13.3	$12.7	$13.6	$15.1	$54.8

(Totals may not add due to rounding)

($ Billions)

Outlays	$14.2	$12.8	$14.0	$13.6	$54.6

Because outlays exceeded taxes in 3 of the 4 years, the account added to the deficit in those years. Only in 1989 were taxes greater than outlays and thus contributed that year to lowering the deficit. Over the four-year period, spending from the highway account increased the deficit by $3.4 billion.

SENATOR LAUTENBERG: How did this cash balance build up in the trust fund?

ANSWER: In the early 1970's, the cash balance rose rapidly from $2.6 billion in 1970 to $9.6 billion by 1975, as a result of impoundments. The cash balance reached a high of $12.6 billion in 1979. Ever since 1981, the balance has fluctuated between $9.0 billion and $10.6 billion.

SENATOR LAUTENBERG: What would you say is the proper cash balance? How did you arrive at this figure?

ANSWER: The minimum prudent cash balance for the highway account is about $2 billion, which represents a cushion against the possibility of errors in estimating taxes, interest, and outlays. At that level, the full highway program apportionments could be released in a given year without the possibility of reductions due to operation of the 'Byrd Amendment'.

IVHS REPORT

SENATOR LAUTENBERG: I see where you are calling for increased spending for research on intelligent highways/vehicles. In the report accompanying the fiscal year 1989 bill, this Committee called for a report on intelligent highway/vehicles, a report that we still have not received. Where is it? Was this another report held up by OMB? Why? How can we evaluate your request if we don't get the information that we requested back in September of 1988?

ANSWER: The study has been cleared by Department and OMB officials. To obtain the views of interested parties, particularly those of the automobile manufacturers, we needed additional time to complete the study. On May 15, 1989, we issued a Discussion Paper to solicit comments on IVHS policy issues. A Federal Register Notice was issued announcing the Docket to receive comments; 105 comments were received and placed in the Docket.

The delays certainly do not reflect any lack of support for IVHS in the Department or the Administration. As you know, we are committed to pursuing this promising technology, and $15.5 million is included in the FY 1991 budget for IVHS R&D. (This includes funds for FHWA and NHTSA.) The Administration has made a strong commitment to "investing in the future", and we believe that IVHS can play a key role in supporting that vision.

NEED FOR INCREASED AVIATION USER FEE

SENATOR LAUTENBERG: Why are additional revenues needed if the aviation trust fund already has a large uncommitted cash balance?

ANSWER: It is necessary to increase user fee revenues to fund the significant spending increases in our reauthorization proposal which are necessary to meet needs, especially for aviation infrastructure. Funding for capital projects would be 73 percent greater over the next five years compared to the amounts made available in the last five years.

We are also continuing our long-held principle that users should pay for their share of the cost of the system. Cost allocation studies have shown that 85 percent of the costs are attributable to civil aviation users. This compares to average trust fund support of only 57 percent over the last nine years.

Proposed spending increases from the trust fund will require both use of the trust fund surplus and an increase in the user fees. Even with user fee increases, the surplus will be reduced from $7.6 billion at the end of FY 1990 to less than $3 billion by the end of FY 1995. Without the user fee increases, the trust fund would have a negative balance in FY 1994.

The fact is that the surplus in the aviation trust fund is there only because we have been legally constrained in using the trust fund to finance FAA operations. We have funded critical expenses, such as the salaries of air traffic controllers and maintenance personnel, but we have had to pay most of those expenses from the general fund. If aviation users had been paying their fair share of FAA's budget, we would have had to increase aviation user fees before now.

SENATOR LAUTENBERG: What guarantee could you give that, even if these additional revenues were raised, that they could or would be spent?

ANSWER: There is no guarantee that the additional revenue from user fee increases will be spent. Annual appropriations are the result of a negotiated process between Congress and the Executive branch. However, I believe that we are proposing well-justified funding levels over the next five years, and I guarantee that I will do everything in my power to see that these levels are reached.

The President has made modernization of the national airspace system one of his major administration objectives, as articulated in his MBO system. In line with this initiative, the budget includes a 45 percent increase in FAA's, Facilities and Equipment account. We are committed to following through on these plans. We hope we have the Committee's support for the necessary spending.

USER FEES

SENATOR LAUTENBERG: The Department has proposed "user fees" on other modes as well ($200 million in Coast Guard fees, $20 million in rail safety inspection fees). Are these proposals serious, or simply budget gimmicks to make the deficit appear smaller?

ANSWER: These are serious proposals. The Department has been seeking Congressional approval of a meaningful user fee program for the Coast Guard for a decade. Coast Guard search and navigation services benefit a relatively small and definable segment of the population involved primarily in a recreational activity. The bulk of the estimated user fee proposal would derive from a small fee paid annually by those users. In addition, the Coast Guard would recover the costs of services directly benefiting owners and operators of commercial shipping, as well the mariners serving aboard them. This is a reasonable proposal, and we continue to believe that Congress should, and will, implement it.

We are equally serious about fees for rail safety inspections. The users -- the railroad industry -- not the general public, should pay for those services.

SENATOR LAUTENBERG: You have been quoted as saying that, "It's a national embarrassment that we've had no new airport built in the United States since 1974." (Dallas/Ft. Worth). I believe that capacity is one of the most important problems facing aviation. What is the administration doing (fiscally) to support new airport construction?

ANSWER: The FY 1991 Budget proposal and accompanying reauthorization bill could nearly double the level of funds available to expand airport capacity. By proposing to remove the prohibition on levying a passenger facility charge, we would enable local airport operators to raise more than $1 billion a year in additional revenues, assuming a $3.00 fee. This amount would be in addition to the $1.5 billion proposed for airport grants.

Additional discretionary funds in our proposal of nearly $200 million compared to $135 million in FY 1990 will allow for more effective targeting of funds toward projects to enhance system-wide capacity and safety such as new airports. This level could increase further depending on the extent to which the statute directed that entitlements be returned to the discretionary fund by airports levying PFCs.

The FY 1991 budget provides a 45 percent increase in funding for the Facilities and Equipment program to bring the NAS Plan technology on line as rapidly as possible. Many of the projects included in the plan increase system capacity and provide equipment for new runways and new airports.

DOT and the industry are working with local communities to discuss, assess and promote the economic benefits of airports, which can be significant.

One of the major grounds for opposing new airports is aircraft noise. FAA focuses on minimizing noise by designing runways and flight paths to minimize disturbance to residential areas. Federal grants also provide funds for noise abatement projects (e.g., sound insulation for nearby buildings, sound monitoring equipment and purchase of land).

AVIATION TRUST FUNDS

SENATOR LAUTENBERG: Do you believe that the growing balance in the aviation trust funds lends fuel to the argument that it should be moved off-budget? (If not, why not?)

ANSWER: It shouldn't, but it does. On its face, the surplus in the trust fund appears to suggest that the Federal government is collecting more in aviation user fees than it is spending on the FAA. Critics charge that we are using the surplus to offset the deficit, and the only answer, they say, is to take the trust fund off budget.

This Committee knows better, however. You have generally recognized FAA's funding needs, and government spending for aviation has far exceeded payments into the trust fund. Over the period 1982 to 1989, $35 billion has been spent (outlayed) by the FAA, while only $20 billion has been collected from aviation users and deposited into the trust fund.

The surplus exists because we have been legally constrained by the "penalty provision" from using the trust fund to finance FAA operations. This Committee has seen to it that those critical expenses — the salaries of air traffic controllers and safety inspectors, and the cost of leasing telephone lines to get flight data to FAA's control facilities, for example — have been paid, but we have had to pay most of those expenses from the general fund.

The basic problem that has caused the surplus to grow has been the penalty provision in FAA's authorizing legislation, and we are proposing to delete that provision in our reauthorization proposal. Our bill would ensure that general taxpayers pay only their share of FAA's costs (i.e., the costs imposed by military and other public use aircraft).

Taking the trust fund off budget would do nothing to solve the problem that has caused the surplus. Instead, it would make it more difficult to account for the true size and financing of Federal programs, which, in turn, would reduce our ability to assess the macroeconomic effects of the Federal sector.

SENATOR LAUTENBERG: As you know, this Committee directed the Department to do a study on passenger facility charges, also known as head taxes. Without benefit of having that study available, you are proposing legislation that allows airports to levy such charges. How much revenue do you estimate could be raised this way?

ANSWER: If the top 50 airports levied a $3 passenger facility charge, they would collect over $1 billion in revenues each year. The top 100 airports would collect about $1.2 billion annually.

SENATOR LAUTENBERG: How do you arrive at that figure?

ANSWER: The $1 billion and $1.2 billion figures are derived by multiplying the current number of domestic enplanements at each airport by $3.

SENATOR LAUTENBERG: Why does this need federal legislation, and what are the prospects for your proposal?

ANSWER: Current Federal law (Section 1113 of the Federal Aviation Act) prohibits the imposition by airports of passenger facility charges. There appears to be a growing consensus that a modest fee, properly constrained to airport-related projects, would produce significant increases in revenues to address airport needs. Our aim is to remove a Federal barrier to local decision making in airport financing.

SENATOR LAUTENBERG: What happens to those airports that elect to assess passenger facility charges?

ANSWER: Airports levying a passenger facility charge would forego 50¢ of entitlement funds for each $1 collected. The foregone funds would be shifted to expand the amount of discretionary funds made available for major capacity enhancement projects and for smaller airports that would not benefit from a PFC.

SENATOR LAUTENBERG: You are asking for a $780 million increase (45 percent) in facilities and equipment funds, or $2.5 billion. Since we still haven't received the detailed budget justification for the FAA, please take a minute to tell us what major systems are proposed to receive funding.

ANSWER: Existing contracts for National Airspace System (NAS) equipment require about $1.7 billion or nearly 70 percent of the total request. The remainder of the request is for infrastructure support and for projects to accommodate growth at major hubs such as Dallas, Denver and Los Angeles.

Major items in the FY 1991 F&E request are:

o AAS	$ 556
o VSCS	185
o Long Range Radar	75
o TDWR	84
o Interim Support	99
o FSS	48
o SEI	111
	$1,158 million

o Dallas	$ 40
o Denver	60
o Los Angeles	76
	$176 million

The FY 1991 request is the beginning of the "bow-wave" frequently mentioned in the past. As most major contracts have been awarded and many are in the delivery stages, an increased level of financial support is necessary to sustain the pace of NAS modernization.

SENATOR LAUTENBERG: The National Airspace System upgrade has been plagued by a number of program/contract slippages and annually asks for Congressional approval to defer a billion in spending already appropriated money. Are you saying this program is now on track?

ANSWER: We are saying that the problems that have caused delays are mostly behind us. Several major programs are in the delivery phase, and current schedules now reflect past experience in timing.

We cannot guarantee that there will not be any further slippage, but we believe it will be minimal. We have taken several steps to strengthen the procurement function to include more intensive oversight and more accountability in meeting projected schedules. Admiral Busey has just created a new executive director position for acquisition, which is intended to strengthen and streamline the procurement process. We expect these steps to help keep acquisitions on schedule.

AVIATION SECURITY R&D

SENATOR LAUTENBERG: As a member of the President's Commission on Aviation Security, I am very interested in your request in that area. You're asking for $26 million for security research and development. Specifically, how would you spend that money?

ANSWER: The $26.4 million requested for aviation security research in FY 1991 doubles the amount of funding we have in FY 1990. The FY 1991 funds will be used in the following ways. Purchase vapor detection systems and continue their evaluation and testing: $11.6 million. Prototype systems (from several vendors) will be installed at various airports in the U.S. and abroad as part of an extensive testing program to screen passengers before they board aircraft. FAA's aim is to develop a system that integrates the best components of various contractors.

Address follow-on enhancements for TNA: $500,000. Complete field tests of x-ray systems paired with TNA — dual sensor systems.

Build an explosive test laboratory at FAA's Technical Center: $6.0 million. The laboratory will test and evaluate detection systems, conduct experiments on breadboard equipment to determine feasibility of new technology; and provide a demonstration site for FAA and other government security specialists to gain firsthand experience with current security systems.

Continue research into new explosive detection concepts and technology and develop prototype, second generation baggage screening systems based on resonance absorption: $4.6 million.

Weapons detection: $1.9 million. Initiate prototype development of millimeter wave screening system for passengers, and complete prototype liquor/wine bottle screener based on magnetic resonance. The bottle screener has been pursued because of terrorists incidents in which bottles were filled with liquid explosives and carried on board aircraft.

Airport security: $1.25 million. Continue the security system demonstration program at Baltimore-Washington International Airport. The program calls for enhanced security approaches and operational procedures which can effectively counter high level of threat (e.g., insider) while maintaining economic viability, responsiveness, and passenger flow.

Security systems integration: $599,000. Continue studies on ways to "harden" an aircraft so that it will have higher probability of surviving a small internal explosion in its baggage and cargo holds (e.g., reinforce baggage containers and the aircraft itself around the holds). Explosive tests on aircraft fuselages will be conducted.

AVIATION SECURITY STAFFING

SENATOR LAUTENBERG: You are asking for an additional 164 security personnel. How and where would these positions be deployed?

ANSWER: The 164 additional positions will bring the authorized staffing level to 848 positions in FY 1991 — a 24 percent increase over FY 1990 and more than three times the level FAA had just five years ago (FY 1985). The increase includes 130 Special Agents for domestic and overseas assignments, and 34 technical and support positions for security offices in the U.S. Special agents comprise 80 percent of the total security work force. The additional staffing in FY 1991 will allow FAA to expand the use of Federal Air Marshals on U.S. carriers operating overseas as well as to increase the level of foreign airport assessments and domestic airport inspections.

We are close to receiving final Department of State approval to increase the permanent security personnel in Europe and the Middle East to a total (including local hires) of 41 overseas positions for FY 1990 — three times the level we had in FY 1989. Further increases at other locations are planned for FY 1991. The increased overseas staffing will allow FAA security specialists to develop and benefit from inspection continuity by staffing assessment teams primarily from permanent overseas personnel. Current assessment teams are frequently comprised of CONUS personnel on TDY assignment.

OIL SPILLS

SENATOR LAUTENBERG: In the last three years, the number of oil spills in New Jersey has almost tripled. We had 117 in 1987, 158 in 1988 and 316 in 1989. Based on the spills in January and February, we will have almost 380 by the end of 1990.

What more can the federal government do to control these spills?

ANSWER: In addition to the pollution prevention initiatives included in the "Statement of National Transportation Policy - Strategies for Action", the Coast Guard has initiated a number of activities aimed at preventing or reducing the likelihood of maritime pollution incidents resulting from vessel structural failure. These include: a National Academy of Sciences study due in September 1990, which will look at the impacts of requiring double hulls and double bottoms and other structural operational safeguards; a tank barge structural integrity study in conjunction with the Towing Safety Advisory Committee; an increased inspection oversight of Trans-Alaska Pipeline Service (TAPS) tank ships; and a reestablishment of our traveling inspector program to investigate older U.S. tankships and barges with evaluation of their manning, repair records, and equipment.

The Coast Guard is a member of the recently created Pipeline Safety Task Force headed by DOT's Office of Pipeline Safety. This Task Force is reviewing pipeline safety oversight to determine the best methods to improve pipeline safety and to reduce pipeline spills and related incidents.

The Coast Guard has commenced an R&D study to develop human factor evaluation criteria for marine casualty investigations. Identification and tracking of the human element of accident sequences will aid us in the interruption of those sequences thereby reducing the number of vessel casualties and related oil spills. Further, under the pending oil spill legislation, the Coast Guard would conduct studies of tank vessel manning and crew qualifications, pilotage qualifications, navigation procedures, and revise licensing procedures to include background checks through the National Driver Register.

The Coast Guard is reestablishing the VTS in New York Harbor and expanding the VTS in Puget Sound, while evaluating other U.S. ports to determine the need for VTS to reduce navigation hazards.

In New York and New Jersey, Coast Guard Captains of the Port have continued to encourage industry cooperatives and pollution prevention oversight programs geared towards self checks of vessel/

facility oil transfer procedures and personnel qualifications by providing additional industry training as time and resources permit. We expect that all of these efforts will result in a significant reduction in the number and severity of oil spills, in New Jersey and nationwide.

CONTROLLING SPILLS IS GOING TO COST MONEY

SENATOR LAUTENBERG: We in Congress have taken major steps to address the oil spill problem but we recognize that the solution is going to cost money. The major oil spill legislation currently in conference will add considerable new requirements to the Coast Guard budget which is already spread very thinly. The bill emerging from the conference committee is likely to require five new strike teams, new equipment, hundreds of additional personnel, and a new R&D program. Why aren't you requesting funding for any of these activities as part of your 1991 budget?

ANSWER: The Coast Guard's FY 1991 budget does contain a marine environmental protection initiative that is related to provisions of the oil spill legislation. The initiative will provide $4,382,000, 130 FTP and 85 FTE for pollution fund enforcement, and licensing and document renewal. The FY 1991 budget also requests $7 million in Acquisition, Construction, and Improvement to equip one additional strike team and provide equipment enhancements for the existing two teams.

We do not, as a practice, budget in anticipation of legislation. The Coast Guard budget was formulated last spring prior to passage of either the Senate or the House bill. We have indicated a desire to work with the conference committee on oil spill legislation to identify a reasonable list of Coast Guard requirements which should be authorized uses of the Oil Spill Liability Trust Fund, subject to appropriations. Once the legislation is enacted, the Coast Guard must receive an adequate level of additional resources to help them implement the new and expanded responsibilities anticipated in the oil spill legislation.

CONTROLLING SPILLS IS GOING TO COST MONEY

SENATOR LAUTENBERG: Since many of the new requirements for the Coast Guard are identical in the House and Senate bill, does it really make sense not to request any funds in your budget?

ANSWER: The Coast Guard budget was formulated last spring prior to passage of either the Senate or the House bill. At that time, many of the legislative provisions were still in their formative stage and could not serve as sufficient budget justification. The Coast Guard's FY 1991 budget does contain a marine environmental protection initiative that is related to provisions of the oil spill legislation. In a recent letter to the Conference Committee on the oil spill legislation, the Secretary indicated the need for a comprehensive staffing and funding arrangement subject to appropriations. We have also indicated a desire to work with the Conference Committee to identify a reasonable list of requirements, which would be authorized uses of the Oil Spill Liability Trust Fund.

SENATOR LAUTENBERG: What does the administration think the new level of effort should be in this area in terms of additional dollars and manpower?

ANSWER: We have reviewed both the Senate and House bills in order to estimate their budget implications for the Coast Guard. We envision that full implementation of the many provisions would be accomplished over a period of three years. In their present form, we estimate the 3-year cost of the Senate bill at $128 million, and for the House bill, $110 million. One compromise approach, would reduce the cost for the first three years to $75 million. This would include approximately $12.5 million in capital expenditures and an estimated additional manpower requirement of 375 personnel. However, the final determination on resource requirements cannot be made until the final range of responsibilities is identified and the legislation is enacted.

SENATOR LAUTENBERG: If we conclude the conference on this bill soon, are you prepared to send the Congress a Supplemental budget request for 1990 to bring up these new requirements this year?

ANSWER: We have very clearly stated that the Coast Guard must receive an adequate level of additional resources before they can take on the significant new responsibilities anticipated in the oil spill legislation. A determination regarding preparation and submission of a supplemental budget request must include consideration of the time at which legislation is enacted and the level of responsibilities contained in the final legislation. The Office of Management and Budget has indicated that it will only consider supplemental budget requests that meet the criteria of a dire emergency request and that identify an equal level of offsetting resources.

ADEQUACY OF RESOURCES

SENATOR LAUTENBERG: Why do you find the level of clean-up resources in the House and Senate oil spill bills to be excessive?

ANSWER: The responsibility to provide oil spill response and cleanup resources is a shared responsibility between federal, state, and local governments as well as private industry. The legislation must make it clear that private industry has the major cleanup responsibility so as to provide sufficient incentive for the industry to maintain such capabilities and, more importantly, insure that they have strong oil spill prevention programs. In our view, the proposed legislation would minimize these incentives by shifting an inordinate share of the cleanup responsibility upon the federal government. This is especially true with the Senate bill which would federalize the clean up of all spills. With specific regard to Coast Guard activities, the Senate and House bills would require the Coast Guard to staff and equip seven strike teams, each with the capability to insure prompt removal of oil from a worst case scenario. The Senate bill goes further to identify the regional locations of the strike teams. It is our view that compliance with such specific requirements would entail an inefficient investment of both personnel and equipment.

We would prefer that the legislation provide a greater degree of flexibility to permit establishment of a National Strike Force (NSF) organization without stating specific numbers or locations in statute. The NSF would be a coordinated Coast Guard command structure composed of an unspecified number of response teams supported by regional inventories of prestaged response equipment. The number of teams and level of equipment would be determined by a risk analysis that would take into consideration existing capabilities (public and private), oil transportation patterns, historical incidents of oil spills and forecast of changes in oil transportation modes and methods.

SENATOR LAUTENBERG: Are you committed to maintaining an enhanced level of resources for oil spill response or will you offer them up for possible cuts in future budgets?

ANSWER: Our primary concern is that the spiller be held primarily responsible for providing an adequate first-response to an oil spill. Within that framework, the Department and the Coast Guard remain committed to maintaining an enhanced response capability. As evidenced in the FY 1991 budget request, we propose to improve the capability that currently exists with the Atlantic and Pacific Strike Teams and add equipment for a third team.

While development of a strong Coast Guard capability is a large part of the national oil spill response capability, others have major responsibilities as well. We encourage the enhancement of the overall response capability that currently exists through the partnership of other federal agencies, state and local governments, and industry through the National Response Team mechanism.

UPDATE ON EXXON VALDEZ

SENATOR LAUTENBERG: Last week, the Coast Guard ordered Exxon to send cleanup crews back to the site of the EXXON VALDEZ spill by May 1st. Exxon has agreed to do so, but with a scaled-down cleanup effort. What is the Administration's assessment of the work left to be done?

ANSWER: It is very difficult, at this point, to determine the exact amount of cleanup left to be completed. The Federal On-Scene Coordinator (FOSC), State of Alaska, and Exxon will conduct a full beach survey and assessment of 500-800 miles of shoreline during late March-early April (weather permitting). This survey will result in work plan to be submitted by Exxon to the FOSC for his approval.

All concerned parties anticipate significantly fewer work areas this summer, especially in the moderate to high energy, intertidal areas. The winter storms and natural processes (abrasion by wave action, evaporation, photo-oxidation, and biodegradation) have cleaned most of these. The lower energy, protected beaches and areas contaminated by subsurface oil are expected to need further work. These expectations are based on observations of similar previous spills and the beach surveys conducted during the winter months by Exxon, NOAA, and the State of Alaska. The Coast Guard will continue to ensure that the cleanup progresses satisfactorily.

SENATOR LAUTENBERG: What do you expect to be the costs of the remaining clean-up effort?

ANSWER: Based on the costs which the federal government has incurred to date, we expect that federal response costs will be approximately $30,000,000 through the Fall of 1990. These federal costs will continue to be reimbursed by Exxon. While we cannot predict what Exxon's cost will be, we anticipate their level of effort will be in line with our expectation for the remaining cleanup. Likewise, we cannot predict the level of activity that will be required beyond next Fall, or the cost that Exxon will ultimately incur for third party claims and restoration of natural resource damage.

SENATOR LAUTENBERG: Will Exxon be bearing all of these remaining costs?

ANSWER: Exxon will directly bear all costs for contracting private cleanup equipment and personnel. We will continue to bill Exxon for federal expenditures. Exxon has expeditiously paid in full all federal costs certified by the Federal On-Scene Coordinator.

SENATOR LAUTENBERG: How would you characterize the level of cooperation you are receiving from Exxon?

ANSWER: Excellent. Throughout the winter, Exxon has had more than 700 personnel involved in various activities associated with the spill. They have conducted numerous beach surveys and site overflights in preparation for an assessment of what work will be necessary during the summer of 1990. Similar winter operations have been conducted by NOAA and the State of Alaska.

At the conclusion of a beach assessment, during late March/early April, Exxon is to submit a work plan to the Federal On-Scene Coordinator for approval. Exxon has acknowledged the necessity for additional cleanup as the result of their winter surveys and operations. The type and locations of this effort will be determined by the forthcoming beach assessment.

We expect Exxon will continue to cooperate fully in the cleanup effort.

SENATOR LAUTENBERG: The AMERICAN TRADER oil spill which occurred last month off Southern California has again highlighted concerns over our ability to respond to major pollution incidents.

How does the response of the shipowner and British Petroleum compare to Exxon's response in Alaska?

ANSWER: The response of British Petroleum (BP) and American Trading and Transport Company Inc., has been comparable to Exxon's response in Prince William Sound. The Alaska spill was twenty-seven times the size of the Southern California spill. Exxon obviously faced a much more complex cleanup problem; but, the response actions by all involved parties in both spills has been good.

Both BP and American Trading promptly assumed financial responsibility for the AMERICAN TRADER cleanup, as Exxon did for the EXXON VALDEZ in Alaska. In both instances, the responsible parties quickly called in available cleanup equipment and personnel. BP, American Trading, and Exxon have also cooperated with response authorities and complied with the direction of the Federal On-Scene Coordinator.

SENATOR LAUTENBERG: What is the expected cost of the cleanup?

ANSWER: The Coast Guard estimates the cost of the cleanup to be approximately $16 million. The direct costs borne by the responsible party are approximately $12-15 million. The Pollution

Fund has incurred costs of approximately $1.5 million which will be reimbursed by the responsible party. Additional appropriate government costs will be billed to the responsible party at the conclusion of the cleanup.

SENATOR LAUTENBERG: Will the cost exceed the shipowner's liability under the Clean Water Act and Trans Alaska Pipeline Act?

ANSWER: Under the Clean Water Act, the shipowner's liability, which applies only to government pollution-related removal costs, is $5,590,350. This liability limit is determined by applying the Clean Water Act's $150 per gross ton limitation to the American Trader. We do not anticipate that our costs will exceed that limit of liability, but the total costs involved illustrate the urgent need to increase substantially the vessel owner's liability limits, as both the House and Senate bills would do.

The total liability under the Trans Alaska Pipeline Act (TAPA) for all claims is $100 million. Of this total liability, the shipowner is responsible for the first $14 million and the TAPA fund available for the remaining $86 million. The shipowner's $14 million limit of liability may be exceeded under certain conditions. In those cases, the shipowner would be responsible for the entire $100 million.

SENATOR LAUTENBERG: Does the shipowner or British Petroleum intend to cover costs above their liability as Exxon did in the Valdez spill?

ANSWER: It appears that the responsible party, American Trading and Transport Company Inc., intends to reimburse all claims for the spill removal and damages. They are being directly supported by British Petroleum (BP), the owners of the oil.

The vessel's legal limit of liability under the Clean Water Act for federal removal costs is $5,590,350. The owner/operator's limit of liability under the Trans-Alaska Pipeline Authorization Act (TAPA) is $14 million for all costs, which includes third party claims. Since the AMERICAN TRADER had lightered part of its cargo, it has yet to be determined whether this is still considered TAPA oil. If it is considered TAPA oil, the Trans-Alaska Pipeline Fund is liable for allowable claims exceeding the owner/operator's initial $14 million limit, up to $100 million (the next $86 million). Both parties have made assurances that all appropriate costs would be covered.

SENATOR LAUTENBERG: Have the shipowner and British Petroleum voluntarily responded to third party claims, as Exxon did with fishermen and other businesses in Alaska?

ANSWER: Yes. Shortly after it became clear that there would be economic impact, a claims office for spill damages was opened and public notice provided in local newspapers. At this point, more than one hundred claims have been settled for a total amount in excess of $100,000.

POLAR ICEBREAKER

SENATOR LAUTENBERG: We funded the acquisition of one new Polar Icebreaker for the Coast Guard in last year's Defense Appropriation bill. Originally, the Coast Guard sought funding for two such icebreakers. However, the Administration has now placed funding for the one icebreaker on its list of deferrals and is using the associated outlay savings from these deferrals to offset its request for a $500 million supplemental for Panama. Does the Administration still recognize the need for even one additional icebreaker?

ANSWER: Yes, indeed. The Administration has not deviated from its position as reflected in the President's FY 1990 budget submission. The deferral is an interim measure until we are able to award the contract. The Department of Defense, to whom Congress appropriated the funds, is understandably validating the procurement strategy, as well as its own wartime requirements for icebreakers. Coast Guard is presently developing a memorandum of agreement for acquisition of the third icebreaker. The Administration is completing a report to Congress which will further affirm the need for the icebreaker.

SENATOR LAUTENBERG: As recently as two years ago, a multi-agency report indicated the need for a minimum of four icebreakers. Does the Administration now believe that we need no more than the two icebreakers that are currently in the fleet?

ANSWER: The Administration supports the need for a third icebreaker to supplement the two currently in the fleet. The Administration has made no decision on the need for additional icebreakers beyond a third one.

SENATOR LAUTENBERG: As you know, this Committee is currently locked in a dispute with OMB over the legality of these deferrals. The General Counsel at the GAO found that the President did, in fact, exceed his authority by deferring these slightly different in that the law requires you to submit a report to Congress before you proceed with the acquisition of the Icebreaker. This mandated report was due a year and a half ago. Since it is currently the Administration's position that acquisition of the icebreaker should be delayed, do you intend to hold up the submission of the report in order to hold up the progress on the icebreaker?

ANSWER: Absolutely not. We have been working closely with other user agencies in developing a comprehensive report for the President's submission to Congress.

SENATOR LAUTENBERG: When should we expect to see the report which was due October 1, 1988?

ANSWER: The Administration plans to submit it to Congress this Spring.

SENATOR LAUTENBERG: What impact will this delay have on the Coast Guard's icebreaking missions? What do you see as the probable schedule for delivery of the new icebreaker?

ANSWER: The Coast Guard will continue to perform the most critical icebreaker missions, such as the McMurdo and Greenland break-ins. With a fleet size of only 2, there is little flexibility to carry out other, less critical missions. According to current estimates, it will take about 4 years to construct a polar icebreaker. Naval Sea Systems Command plans to award a construction contract in May of 1991.

SENATOR LAUTENBERG: The Coast Guard seems locked in a dispute with the National Science Foundation over which agency should control icebreaking support of ocean research missions. Has any progress been made in resolving this matter with the NSF?

ANSWER: A primary function of the report to which you referred in previous questions is to serve as a vehicle for the resolution of any outstanding issues. We are preparing the report with that in mind.

USER FEES

SENATOR LAUTENBERG: The Administration is again requesting a series of user fees such as those in the Coast Guard, FRA and the Office of Commercial Space. You are also requesting increases in some of the current user fees such as the airline ticket tax.

I have pointed out in the past that some people view this policy as a gimmick since you take credit for the user fees in your deficit calculation but then you do not seriously pursue the proposals with the Congress. In some years, the Administration has not even submitted the necessary enacting legislation as was the case in the last Congress with the Railroad inspection fees.

Can we expect all of the necessary legislative proposals to be submitted in the near future?

ANSWER: The Administration is serious about trying to recoup the costs of services that can be attributed to identifiable users. The highway and aviation user fees already in place are a good example. A basic tenet of the National Transportation Policy, to be released later this month, will be to expand the user fee approach.

SENATOR LAUTENBERG: What is your prognosis for success with the Congress this year?

ANSWER: The Department has, in fact, transmitted draft bills to put user fees in place. In the case of railroad safety inspections, DOT sent a bill forward March 19, 1989, which is still pending before Congress. It was introduced in the House by Representative Whittaker. Early consideration of each of our proposals is urged, and we are optimistic that the annual budget negotiations can lead to new fees where appropriate.

SENATOR LAUTENBERG: One problem I have often found with your user fee proposals is lack of consistent policy behind them. For example:

— you are proposing $20 million in user fees for railroad inspections but your actual budget for inspection activities is $36 million.

— for the Coast Guard you are proposing $200 million in user fees to be borne by pleasure boaters who enjoy the benefits of Search and Rescue and Aids to Navigation. But the costs of each of these missions individually approach $500 million.

How did you arrive at the dollar amounts for each of these user fee proposals?

ANSWER: The rail proposal assumes that the user fee legislation would be enacted at the start of FY 1991 and would require 4 to 6 months for implementation. As such, 1991 user fee receipts would represent about 55%, or $20 million, of the program cost. In FY 1992 recovery of the full program cost is assumed.

The Coast Guard user fee proposal reflects best estimates of the full recovery of the cost of providing specific services provided identifiable individuals — direct fees — and a flat annual fee for all U.S. vessels using our navigable waters, to recover a portion of the cost of providing such services as search and rescue and aids to navigation.

SENATOR LAUTENBERG: Were the dollar amounts driven by a consistent policy or did the need for a certain level of budget savings cause you to create a policy?

ANSWER: Clearly, the former — the dollar amounts derive from a consistent policy of seeking full recovery, where possible, of the cost of providing services which benefit specific user groups. In the case of the recovery of the costs of providing search and rescue and aids to navigation services, we tempered our desire to seek full recovery with our judgement as to what might be legislatively achievable.

SENATOR LAUTENBERG: Were these policies and dollar amounts developed by your people in DOT or were they developed at OMB?

ANSWER: These proposals were developed by DOT.

DRUG TESTING POLICY

SENATOR LAUTENBERG: Please give us a status report of your efforts, and any successes in implemented programs for each transportation made.

ANSWER: The Department of Transportation (DOT) drug testing requirements became effective, generally on December 21, 1989, for companies with more than 50 covered employees. Random and some forms of mandatory post accident testing have been enjoined in the highway industry. Also, all testing ceased under the Urban Mass Transportation Administration (UMTA) rules when the court found UMTA did not have statutory authority to issue the regulations. We have proposed legislation to provide authority for UMTA to issue the regulations.

The United States Coast Guard drug testing program also suffered a setback, but we are redrafting the rule concerning the scope of who will be random tested.

While it is still too early to pick out specific successes in each mode, DOT is vigorously pursuing the implementation of the drug regulations and is working closely with the affected industries, associations, labor groups, and individuals. The Department's operating administrations have developed detailed guidance material, conducted scores of training sessions, and responded to telephone and written inquiries. In addition, we have sponsored seven implementation seminars across the United States which have been attended by thousands.

The Secretary has established a focal point for drug policy, enforcement, and compliance within his immediate office. The office will coordinate efforts throughout the Department to ensure compliance and provide guidance for industry implementation.

SENATOR LAUTENBERG: Workers at domestic aircraft repair stations are now subjected to the drug testing requirements established by DOT. Are workers at certificated foreign facilities now subject to those same requirements?

ANSWER: Employees at domestic aircraft repair stations will be required to be included in an FAA-approved drug testing program if they perform sensitive security- or safety-related functions for a carrier or other commercial aviation entity operating under Part 121 or 135 of the Federal Aviation Regulations (FAR). Employees of a domestic repair station operated by a carrier or other commercial aviation entity operating under Part 121 or 135 of the FAR were covered as of December 18, 1989. Employees located outside the territory of the United States are not required to be subject to testing prior to January 2, 1992. Testing requirements are the same for all individuals and entities covered by the regulation.

SENATOR LAUTENBERG: Are domestic facilities subject to decertification if they do not have drug testing programs in place, or if their programs do not meet departmental criteria?

ANSWER: The FAA drug-testing regulation does not provide for adverse certificate action against repair stations. The regulation requires holders of Part 121 and 135 certificates to ensure that any individual performing a covered function, either directly or by contract (including repair stations), be included in an FAA-approved anti-drug program.

SENATOR LAUTENBERG: I understand that foreign repair stations have been given until 1992 to come into compliance with the drug testing requirements that domestic facilities now face. If a foreign facility is certificated, but does not put a drug testing program into place by 1992, would it be subject to the same penalties that a domestic facility would face?

ANSWER: The regulation does not provide for specific penalties against a repair station which does not have an approved anti-drug program by a specific date. A commercial aviation operator who used repair station (domestic or foreign) employees not covered by a drug testing program to perform safety-related functions after the specified dates would be in non-compliance, and subject to penalties or other enforcement action.

SENATOR LAUTENBERG: I understand that a large number of foreign facilities have applied for certification under the new expanded Federal Aviation Regulation 145. How many facilities have applied for certification? How many foreign facilities have been certificated under the new expanded rule? Where are they? Of those facilities which have been certificated, how many have in place drug testing programs that would meet the DOT criteria for domestic facilities? How many foreign repair stations are now certificated, under either the previous rule or the new rule?

ANSWER: Under the new regulation, 138 foreign facilities have applied for certification, of which 15 have been certified to date: England (3), Netherlands (1), Sweden (2), West Germany (1), Singapore (4), Thailand (1), Columbia (1), Mexico City (1), and Nuevo Laredo (1). None of these facilities has drug testing programs that meet the DOT criteria for domestic facilities.

There are currently 257 certificated foreign repair stations, which includes the following 15 stations certificated to date under the new regulation.

SENATOR LAUTENBERG: What enforcement mechanism is in place to ensure that foreign repair facilities are meeting the same drug testing requirements that domestic facilities must meet?

	NAME	LOCATION	CERTIFICATE #	RATINGS
1.	Normalair-Garrett	Bournemouth, England	NOUY522K	Limmited Accessory
2.	Woodward Governer Nederland, B.U.	Hoofdorp, Netherlands	WOWY588K	Limmited Accessory
3.	Smith Industries Aerospace and Defense Systems Limited	Cheltenham, England	XSMY589K	Limited Instrument Limited Accessory
4.	Smith Industries Aerospace and Defense Systems Limited	Basingstoke, England	XSMZ598K	Limited Instrument Limited Accessory
5.	Scanmotive A.B.	Arboga, Sweden	AY53744M	Limited Powerplant Limited Specialized Service
6.	FFV Aviocomp Malmslaett	Linkoeping, Sweden	CQ5Y788M	Limited Propeller Limited Radio Limited Instrument Limited Accessory
7.	MTU Maintenance	Hanover, West Germany	CQ5Y788M	Limited Powerplant PW2000, V2500
8.	Interturbine Compressor Technology	Changi, Singapore	QQIY563K	Limited Powerplant
9.	Singapore Aerospace Engineering Co., Pte. Ltd.	Seletar, Singapore	QQSY5622K	Limited Airframe Limited Powerplant Limited Specialized Service
10.	Singapore Aerospace	Singapore	PTYY442K	Class 1 & 2 Accessory Limited Powerplant

11. W.H. Bryennan & Co., Pte. Ltd.	Singapore	WHEY443K	Limited Specialized Service
12. Thai Airways Ltd.	Bangkok, Thailand	RJHY603H	Limited Airframe Limited Powerplant Limited Specialized Service Class 1, 2, 3, Radio Class 1, 2, 3, 4 Instrument Class 1, 2, 3 Accessory
13. Corporacion de la Industria Aeronautica Columbia (CIAC)	Bogota, Columbia	DLNY451K	Limited Airframe Limited Powerplant Limited Specialized Service
14. Taller Y Technologia en Turbines	Mexico City	QTPPY366K	Limited Powerplant
15. Aero Reparaciones	Nuevo Laredo	RJYY623K	Limited Powerplant

ANSWER: Enforcement mechanisms and procedures are currently being developed for all entities affected by the regulation. Foreign repair facilities will be given no less consideration than domestic facilities.

SENATOR LAUTENBERG: From a safety and security perspective, what is the justification for applying drug testing requirements on domestic facilities, but not on foreign facilities where American planes are being maintained or repaired?

ANSWER: On December 27, 1989, the FAA published a final rule which extended the compliance date for one year, to January 2, 1991, for required drug testing of employees located outside the territory of the United States. This one year delay in the compliance date does not apply specifically to foreign repair stations, but to any individual or entity located outside U.S. territory who performs a security- or safety-related function for an employer affected by FAA's drug testing regulation. The extension in the compliance date is intended to allow time for the Department of Transportation to work with the State Department and representatives of foreign governments to avoid situations in which rule compliance would violate the domestic laws or policy of another country.

COAST GUARD AND FAA PROCUREMENT VULNERABLE TO WASTE AND FRAUD

SENATOR LAUTENBERG: Mr. Secretary, as you know, following the revelations of the waste, fraud, and abuse at HUD, OMB Director Darman ordered a review of all the major cabinet agencies for similar areas of vulnerability so that corrective action could be taken. One of the major findings in DOT was that the procurement capabilities of the FAA and Coast Guard are not adequate to handle the major systems acquisitions expected over the next many years. OMB estimated that, just for new major program acquisitions, the Coast Guard will require $1.5 million over the next 5 years, and FAA will require roughly $8.2 billion over the next 15 years. What steps have you taken to address this finding?

ANSWER: To clarify the record, I would like to point out that, OMB in its report stated that the procurement capabilities of the Coast Guard and FAA may not be adequate to handle major systems acquisitions. OST agreed to evaluate the Coast Guard and FAA acquisition programs to determine if a material internal control weakness existed. OST conducted two acquisition management reviews of the FAA and one of the Coast Guard in 1989. While these reviews did reveal deficiencies in several procurement practices of the Coast Guard and FAA, the severity of the deficiencies was not such to warrant designating major systems as a material weakness. This was reflected in the Senior Procurement Executive's certification of the DOT procurement system to the Secretary in accordance with Executive Order 12352. DOT's response to the following three findings are made in this context.

The Coast Guard, FAA, and OST continue to work together on improving major systems acquisitions and have made significant improvements over the past several years. In recognition of the growth in size of the major systems budgets, the FAA has doubled the size of its professional procurement staff, realigned the acquisition function, and created an Executive Director for Acquisition to provide direction and oversight to this critical area. In concert, the FAA has delegated more authority to Program

Managers of major systems as well as more accountability for Program Managers in the operation of these programs. The recent FAA realignment includes establishment of an Aviation Systems Acquisition Review Council (ASARC) for major acquisitions. In response to earlier criticism of its major system acquisition capabilities, the Coast Guard realigned its acquisition function to provide better ability to manage its major systems acquisition. The Coast Guard now has in place the Coast Guard Acquisition Review Council (CGARC). Both the CGARC and the ASARC provide for OST representation to ensure Departmental oversight of major system acquisition. Within this context, OST is providing an independent check balance.

The OST has also established an aggressive Acquisition Management Review (AMR) process, completing reviews of both Coast Guard and FAA headquarters last fall. The review identified no major problems, and showed that Coast Guard has strengthened and formalized its internal review process for major acquisitions (e.g., a high-level contract review board was established to monitor the Fleet Renovation and Modernization (FRAM) program; this initiative has been very successful and will be expanded to other programs). The review at FAA (which was conducted with OST, Coast Guard and Transportation Systems Center review team members) did show that there are opportunities to improve internal management and oversight. The FAA Administrator's recent steps to establish an Executive Director for Acquisition, responsible for all acquisition issues including a strong oversight/policy function (as well as testing), and to strengthen the program management function, are appropriate steps to foster the improvements. FAA has also significantly increased its headquarters procurement staff which will help improve the situation.

The Department is issuing a directive which will strengthen the major systems acquisition (MSA) oversight process without unnecessarily burdening the operating administrations with excessive paperwork. A key feature of this directive includes:

- Annual updates of Acquisition Plans will be required. This will assist OST and the operating administrations in monitoring the programs, but it will also add discipline to the internal procurement oversight by the FAA and Coast Guard.

SENATOR LAUTENBERG: Has this situation already contributed to some of the significant cost overruns that we have found in the major acquisitions in the Coast Guard and FAA?

ANSWER: There is no simple explanation for increases in the cost of major acquisitions. Perhaps the most common reasons are the complex software development associated with most new systems, evolving requirements, contractor performance, changing technology, and overly optimistic schedules.

Given the dynamic nature of the acquisition process and the diverse factors impacting upon it, it may not be totally possible to eliminate cost growth. However, with the recent steps taken, and continued senior management attention by the Coast Guard, FAA and the Office of the Secretary, positive action is being taken to limit its impact.

SENATOR LAUTENBERG: One of the specific recommendations of the OMB review was that top management in the Coast Guard and FAA must commit themselves to a specific date to correct the inadequacies found by the report. Has the FAA and the Coast Guard committed themselves to such deadlines? Have you sought to impose these deadlines on them?

ANSWER: The Coast Guard and FAA are firmly committee to strengthening and improving the operation and oversight of their respective acquisition programs. Since, at the time of the OMB report, the steps described in the answer to the first question were under discussion or underway, we did not establish an additional plan. Staff from FAA and OST will meet monthly to review this situation. Our recent AMR of the Coast Guard's procurement operations has assured as that the Coast Guard has now in place the policies and procedures to effectively procure major systems.

SENATOR LAUTENBERG: The GAO just concluded a major audit of the Air Force which revealed gross underestimates of the actual cost of some major acquisitions. Part of the problem appears to be the numerous antiquated accounting systems used by the Air Force. We are aware that the Coast Guard uses several different accounting systems, some of which are very old. Should we be concerned that some of the major acquisition problems at the Air Force may also be found at the Coast Guard?

ANSWER: Our recent review did not turn up any circumstances where faulty accounting systems caused acquisition problems. In the case of FRAM, the poor initial estimates were due to an underestimate of the amount of work required. After the first ships were completed and the scope of work to complete a FRAM became more clearly understood, Coast Guard's estimates have become significantly more reliable. Also, the Department is in the implementation phase of its Departmental Accounting and Financial Information System (DAFIS). In anticipation of using DAFIS, the Coast Guard is consolidating all of its accounting operations from various geographical areas into a consolidated central accounting activity in Chesapeake, Virginia. All of the Coast Guard is projected to be using this Departmental system by October 1991.

FEDERAL ROLE FOR AMTRAK — NORTHEAST CORRIDOR

SENATOR LAUTENBERG: Mr. Secretary, for the first time your budget submission praises Amtrak's record of successfully reducing its need for federal assistance and praises its goal to eliminate the need for all federal operating support by the end of the decade. Yet, your bottom line budget request is the same as in the past six years — zero funding for Amtrak. How do you expect Amtrak to reach this point of operating self-sufficiency by the year 2000 if we begin terminating federal support in 1991?

ANSWER: Current budget constraints limit the availability of funds to cover Amtrak's subsidy needs. The President's budget represents the Administration's highest priorities for transportation programs, given the constraints of deficit ceilings imposed by Gramm-Rudman-Hollings.

Over the past few years, Amtrak has made significant progress in increasing its ridership and improving its revenue-to-cost ratio. Although Amtrak continues to break records in revenues, passenger miles, and operating costs covered by revenues, the railroad still loses over half a billion dollars annually. The Federal subsidy averaged $27 per passenger (based on FY 1989 subsidy and ridership data).

The Administration is eager to work with Amtrak, Congress and other interested public and private parties to develop a long-term strategy that will help Amtrak to meet its capital needs, make its services more cost effective, and reduce its dependence on Federal subsidies. Such a strategy might include labor reforms, service changes, fare increases, and legislation to (1) reduce labor cost (e.g., FELA and railroad unemployment); (2) require states to pay for the operating deficit on the intra-state and intercity trains that Amtrak is statutorily required to operate at state request; and (3) modify labor protection provision to enable Amtrak to make its route structure more cost effective.

AMTRAK CAPITAL

SENATOR LAUTENBERG: Your budget proposal states that the administration is eager to work with Amtrak to help secure the needed capital from the private sector to make Amtrak services more effective. Since Amtrak already finances a significant portion of its capital needs through private borrowing, what additional steps are you suggesting?

ANSWER: As of the September 30, 1989 Amtrak's long term debt totalled $47 million, or about one percent of assets, a relatively small amount compared to other U.S. corporations. It is not our role to dictate how Amtrak should raise private capital. However, we do firmly believe that any plan for Amtrak self-sufficiency between Amtrak, the Congress and the Administration should address options for obtaining needed capital from the private sector.

SENATOR LAUTENBERG: Are you at all concerned with saddling Amtrak with too great of a loan burden?

ANSWER: We believe that Amtrak should keep its debt level manageable. Amtrak currently has one of the lowest debt burdens of American corporations. Interest payments in FY 1989 made up only 1/6 of 1 percent of its total expenses.

SENATOR LAUTENBERG: I understand that, in your testimony before the House Transportation Appropriations Subcommittee, you praised Amtrak's work at improving service and infrastructure in the Northeast Corridor.

Why then have you proposed terminating funding for this activity as well?

ANSWER: The Northeast Corridor Improvement Project has been completed. Further improvements and capital investments on the Northeast Corridor should be part of Amtrak's capital program.

FEDERAL ROLE FOR AMTRAK—NORTHEAST CORRIDOR

SENATOR LAUTENBERG: I also understand that, at the same hearing, you said that your agency will be soon be reviewing many of Amtrak's impediments to self-sufficiency, such as their labor liability costs. You said, "The time has come to face up to these issues and we'll be doing that this year. Without a plan, the administration feels Amtrak should not get Federal support." Should we interpret your remarks to mean that after you have conducted a thorough evaluation of these issues, you may, in some future budget, be requesting Federal funds for Amtrak?

ANSWER: The study will seek to develop a realistic plan for Amtrak to reach self-sufficiency, determine how soon that is possible, and identify the steps that need to be taken by Amtrak and by the Federal Government to enable it to happen. We think an agreement can be reached on such a plan with Amtrak.

SENATOR LAUTENBERG: Mr. Secretary, by the end of this spring, there will be a considerable amount of turnover on the Amtrak Board of Directors. You are an ex officio member of that Board and I assume that you will play a major role in the appointment of new Directors. Will you be using that role to determine Amtrak's direction for the rest of the decade and, if so, what criteria are you bringing to the selection of the new Amtrak Board Members?

ANSWER: The members of Amtrak's Board of Directors are expected to exercise their judgement independently in guiding the management of the Corporation toward achievement of improved service, improved efficiency, and less dependence on Federal financial support. DOT will support the appointment of persons who not only are committed to these goals, but also by their actions in currently or previously held senior positions have demonstrated their ability to manage, advise or govern large organizations successfully.

SENATOR LAUTENBERG: Mr. Secretary, part of Graham Claytor's plan to be self-sufficient of Federal support by the year 2000 involves a steady decline in Federal operating support, but a significant infusion of Federal dollars for capital improvements. Do you not concur in the need for these capital improvements, or is it simply your view that the funding should come from some place other than the Federal Government?

ANSWER: DOT agrees that Amtrak's progress toward self-sufficiency would benefit from an infusion of capital investment. We will work with Amtrak to develop a strategy for funding capital needs that depends heavily on financing from private sources.

SENATOR LAUTENBERG: Mr. Secretary, once again the overall thrust of your budget request is to boost funding for the Coast Guard and FAA at the cost of funding for Amtrak and Mass Transit. Yet, when you look at our funding for the FAA in comparison to the revenue taken by the ticket tax, the federal government has continually subsidized the aviation industry to a much greater degree than we have subsidized the railroad industry through Amtrak, local rail service assistance, and the Northeast Corridor improvement programs. In the Northeast Corridor in 1989, Amtrak carried over 17,000 non-commuter passengers daily. That's twice as many passengers between New York, Newark, Philadelphia, Baltimore, and Washington as all of the airlines combined. There simply is not the air capacity to handle this volume of traffic. Yet the administration continues to ask us to boost our support of aviation at the cost of our subsidy of the rail industry. Why haven't these factors been considered in the development of your budget request?

ANSWER: We are well aware of the role Amtrak plays in this Nation's overall transportation system, and that is a factor we considered in developing the budget. We have requested a significant increase in Federal support of aviation, but it would not come at the cost of rail subsidies or other general fund programs because we have proposed an increase in aviation user fees to support our proposed FAA budget increase.

That is in fact, the important difference between the Federal role in support of the aviation system and its support of the rail system. If the Congress accepts the President's proposals for FAA funding, the users will pay for the services they receive. The Amtrak subsidy is just that: a subsidy by general taxpayers who do not use Amtrak services; and current budget constraints limit the availability of Federal funds for Amtrak's present subsidy needs.

What we hope to do is to work with Congress, Amtrak, and other interested public and private parties to determine how best to obtain needed capital from the private sector and to make Amtrak services more cost-effective.

SENATOR LAUTENBERG: Are these facts given any consideration at all, or have you just started with the assumption that your request for Amtrak will be zero, and found a rationale to meet the request?

ANSWER: We did not start with the assumption that our request for Amtrak would be zero. DOT staff looked very carefully at Amtrak's needs and various ways to reduce the subsidy requirements. However, given budget constraints, other competing needs, and the user-fee basis of most of the Department's budget, we could not justify continuing the Federal subsidy.

MAGLEV RESEARCH

SENATOR LAUTENBERG: I am pleased to see that your budget request includes a substantial boost in funds to support maglev research, from $500,000 in 1990 to $6.1 million in 1991. I was surprised to see, however, that $3.5 million is also requested separately for maglev research in the Army Corps of Engineers. To what degree are these two initiatives coordinated? Can I assume that the FRA will be the lead agency in this initiative?

ANSWER: The two initiatives are being extensively coordinated. The Federal agencies involved in maglev research have established the Federal Maglev Executive Committee, which is chaired by the FRA with participation of the U.S. Army Corps of Engineers, and the Department of Energy. This Committee sets policy direction for the Federal Maglev Initiative. At the working level, the Federal Maglev Coordinating Committee is directing implementation of the programs and is coordinating all Federal maglev efforts.

SENATOR LAUTENBERG: As you know, some of the federal government's past efforts to promote new technologies have been dismal failures. Our experience with synfuels is perhaps the most tragic example. In light of these past efforts, what can you tell me about your plan to promote Mag Lev technology?

ANSWER: The goal of the proposed program is to stimulate private sector interest in the development of an advanced U.S. maglev system. The Federal Government's role will be limited to facilitating the process and conducting only that research and development necessary to encourage private sector involvement. The approach will include private sector participation early in the process to identify development requirements and to carry out planned technology assessments and system concept studies. A committee of the Transportation Research Board, an arm of the National Academy of Sciences, will provide independent scientific and technical input and review.

FRA INSPECTION USER FEES

SENATOR LAUTENBERG: You are again proposing to raise $20 million in user fees to be paid by the rail industry. You argue that the revenue will help offset the cost of railroad safety activities, including inspections. Yet, your budget request for railroad safety for 1991 is $36.5 million and this request will not change with the enactment of user fees. How did you arrive at this $20 million figure? Why isn't it $10 million, or the full $36.5 million?

ANSWER: Our proposal assumes that user fee legislation would be enacted at the start of FY 1991, and it would take from four to six months to implement the legislation. Therefore, user fee assessments would cover about 55 percent ($20 million) of the cost of the Safety program in FY 1991. The full Safety program cost, about $38 million, would be assessed in FY 1992.

USER FEES

SENATOR LAUTENBERG: How do you argue that this funding is used to offset the cost of inspections when your budget request will not change with or without the enactment of user fees?

ANSWER: The level and cost of inspections is determined by safety considerations, and not by the level of revenue that is or is not collected. However, we believe that user fees should be enacted to cover that cost. The proposed user fees are categorized as "proprietary receipts," which offset total DOT budget authority and outlays. They are not categorized as "offsetting collections" that would be specifically credited to the Railroad Safety appropriation, and would reduce the amount of appropriations needed for that account.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SENATOR LAUTENBERG: I want to commend your budget request in NHTSA to increase funding for the Section 410 Anti-Drunk Driving Incentive Grants from $4 million to $8 million. Last year's appropriation of $4 million was for the first year start-up costs. Your budget states that your objective for the $8 million in 1991 is to assist three to eight States to qualify for the funding under Section 410. That range indicates a fair degree of uncertainty as to how many States will qualify for these new incentive grants and how quickly. What is your expectation for the number of States that will be participating in the Section 410 program this year?

ANSWER: The 1991 budget request was based on three to eight qualified States and reflects our best current estimate. We should have more information once the States complete their assessments and advise us about their conclusions and decisions. However, very early expressions of interest by the States indicate that one State (Alaska) believes it may qualify now, and at least four other States (Indiana, Oregon, New Mexico and New York) either are planning to introduce new legislation to permit them to qualify, or are evaluating their programs in terms of the Section 410 criteria. NHTSA has provided all States with the implementing rules and we will support all States in their efforts to qualify.

SENATOR LAUTENBERG: It has been a month and a half since your final regulations were printed for the 410 grants. Do you know how many States have applied as yet?

ANSWER: Given the recent issuance of the final rule on January 12, 1990, States are now in the early stages of evaluating their laws and programs against the Section 410 criteria authorized by Congress. Thus, no States have applied as yet.

SENATOR LAUTENBERG: I have heard from the Mothers Against Drunk Driving (MADD) organization, which is a strong supporter of this initiative. They are concerned that your regulations for this program are so strict that it is conceivable that no States will qualify for funding this year. Do you share this concern?

ANSWER: In enacting Section 410, Congress intended to intensify the attack on impaired driving, and to do so in very strong and effective ways. The 1988 law specified, in detail, stiffer legal and programmatic requirements that States would have to meet in order to qualify for incentive grants. Chief among these measures were expedited driver license actions to remove offenders from the road, and a financially self-sustaining program that reinvests offender fines and surcharges at the community level to continue the attack on impaired driving. To receive the maximum amount of funding, States would also have to provide for mandatory alcohol concentration testing, effective programs to prevent under age drinking, suspension of vehicle registration and loss of license plates for certain offenders, and measures forbidding open containers and alcohol consumption in vehicles. These elements of the legislation require that States develop strong measures against impaired driving to qualify for funding.

The regulation issued by the agency in January establishes the procedures by which States may demonstrate this eligibility and award incentive grants. Given the specific requirements that were established by Congress in the authorizing legislation, the agency provided as much flexibility as it could in its implementing regulation.

WHY NO REGIONAL OFFICES FOR HAZARDOUS MATERIALS INSPECTION ACTIVITIES

SENATOR LAUTENBERG: Mr. Secretary, as you know, your office of Pipeline Safety in RSPA has regional inspection offices around the country, while your office of Hazardous Materials Transportation does not. Our Committee has gathered information indicating that we could increase efficiency as well as the number and frequency of hazardous materials inspections if we established regional offices for your Hazardous Materials Office. The Committee requested a report on this topic back in June of 1988. A full year went by so we insisted in last year's bill that the report be submitted no later than the end of December 1989. Mr. Secretary, it is now March, and we still have not seen this report. Can you tell us about its status? Has it been held up at OMB?

ANSWER: The Office of the Secretary and the Office of Management and Budget have taken a keen interest in the Report. A series of revisions to the Report have been made since RSPA's original version in December 1988. RSPA is currently incorporating final OMB and OST comments and the report should be ready to forward to the Committees by the end of March.

SENATOR LAUTENBERG: Can you tell us at this point what your position is on the establishment of regional offices for hazardous materials inspection?

ANSWER: I have not yet read the report or been briefed on it.

I therefore want to reserve judgement to see how the cost of setting up field offices compares to projected gains in productivity.

WHY NO REGIONAL OFFICES FOR HAZARDOUS MATERIALS INSPECTION ACTIVITIES

SENATOR LAUTENBERG: Mr. Secretary, your budget request asked for an additional 8 positions for inspectors in RSPA, 6 for your office of Pipeline Safety, and 2 additional inspectors for Hazardous Materials. We have always concurred in your requests for additional inspectors but we have noticed it has often taken an extraordinary amount of time for RSPA to get these new inspectors on board. When we have asked RSPA about the causes of these delays, they have explained that they must compete against the state inspection offices in the recruitment of high quality inspectors.

Have you looked at the compensation levels of the inspectors in these offices to see if they are adequate?

ANSWER: Compensation levels have never been an issue in hiring hazardous materials inspectors. RSPA believes that, in general, the compensation levels are adequate in attracting qualified applicants for hazardous materials inspector positions.

SENATOR LAUTENBERG: Is this the only problem that you are aware of as to the delays in bring new inspectors on board?

ANSWER: More recently, a major reason for delay in hiring hazardous materials inspectors has been the uncertainty as to the future structure of the program—whether or not we would have field offices. Our Fiscal Year 1989 vacancies would have been filled more quickly but for the fact that several candidates declined job offers because they could not afford to move to Washington. A secondary reason for delay in hiring hazardous materials inspectors is for those situations (5 of the last 8 hired) where recruitments are made outside the Government, the Office of Personnel Management's certification process requiring non-status candidates who have never worked for the Federal government be certified by OPM as qualified and be included in a selection register.

Selections have been made for our four Fiscal Year 1990 vacancies and inspectors will be on board by May 1990.

MODAL AGENCIES — HAZARDOUS MATERIALS ENFORCEMENT

SENATOR LAUTENBERG: Each of the modal agencies have their own hazardous materials enforcement while RSPA focuses on the transfer of hazardous materials from one mode to another and other related areas. As I mentioned at our hearing last year, hazardous materials inspectors in RSPA are finding an extraordinary level of non-compliance, ranging from 40 to 60 percent. Are you content with the level of cooperation between the modal agencies and RSPA in the area of hazardous materials safety?

ANSWER: There is always room for better coordination between and among the modal administrations. Nevertheless, there is extensive coordination now. RSPA hosts a bi-monthly meeting of program officials responsible for enforcement in their mode as well as a bi-monthly meeting of each modal agency's enforcement attorneys. In the meetings with program officials, current regulatory issues are discussed, as well as particular enforcement cases or problems. In the attorneys' meetings, general enforcement issues are discussed as well as specific cases or actions. In addition, a document of coordination guidelines was adopted in August 1989 by each agency with hazardous materials enforcement responsibility. The guidelines deal with free exchange of information regarding noncompliance; coordination of inspection activity; promotion of joint activity when appropriate; attendance at the bi-monthly and other special meetings; and appearance of modal personnel at each other's enforcement proceedings, if required.

SENATOR LAUTENBERG: Do you have any initiatives underway to tighten the systems we have in place?

ANSWER: RSPA has no new initiatives underway, but will strive to continue present efforts.

SENATOR LAUTENBERG: Do you find any particular mode especially vulnerable to a hazardous materials disaster?

ANSWER: The most serious hazardous materials accidents have occurred in the rail and trucking industries. Past regulatory efforts have led to design modification and refitting of rail tank cars with equipment for improved safety. Current efforts, such as the cargo tank rulemaking, will improve the safety in transportation of bulk shipments of hazardous materials by highway.

ENVIRONMENTAL CLEANUP OF DEPARTMENT OF TRANSPORTATION FACILITIES

SENATOR LAUTENBERG: Mr. Secretary, your budget for 1991 includes $7 million for the Coast Guard and $1.5 million for FRA simply to clean up environmental problems at either current or former agency facilities. There are also cleanup funds requested in the Federal Aviation Administration.

How severe are the environmental problems at our Department of Transportation facilities, and how comprehensive an understanding do we have at this time of the potential cleanup costs over the next several years?

ANSWER: The bulk of DOT's environmental compliance responsibility involves replacement of underground fuel storage tanks (3,400 tanks owned by FAA; 1,000 owned by Coast Guard). Eventually, all of them must be replaced with leak-resistant tanks probably at a cost of several hundred million dollars. Tightness tests are underway on the older tanks to determine how many are already leaking, and which ones need to be replaced first. In addition, FAA faces the potentially costly responsibility of cleaning up more than 50 hazardous waste sites in the State of Alaska, and several sites at its Technical Center near Atlantic City, New Jersey. Until tests are completed, the cost of these efforts cannot be established.

SENATOR LAUTENBERG: Are we only seeing the tip of the iceberg at this point? Could the situation be as bad as the clean up costs associated with the Department of Energy nuclear processing facilities?

ANSWER: The situation is not nearly as serious or costly as the Department of Energy's problem. For FY 1991 alone, DOE's budget request for cleanup is about $2.8 billion — far more than DOT expects to spend for cleanup in the foreseeable future.

SENATOR LAUTENBERG: What improvements in environmental monitoring and compliance are you pursuing to ensure that similar problems do not recur at D.O.T. facilities?

ANSWER: A new Division is being formed in the Office of the Assistant Secretary for Administration, with the primary function of ensuring that our facilities are in compliance with Federal, state and local regulations. We are starting environmental audits of our facilities, and annual formal evaluations of environmental programs.

In addition, as we replace underground storage tanks, all of them will be equipped with leak detection equipment to help ensure compliance in future years.

For example, if the 0.8 percent BAC standard became a precondition for the Section 408 incentive program, that would eliminate 20 of the 23 States that have qualified — which would deprive those States of millions of dollars in anti-DUI funding. Also, the addition of a 0.08 percent BAC criterion to the new Section 410 program would make it even more difficult for any State to qualify for that program.

It should be noted that NHTSA has begun an in-depth study on BAC limits, in response to the provision in the 1988 drug act. The first phase report to Congress is scheduled for September 1990, and the entire report is scheduled for completion by December 1991. That report should help to identify long-term goals for BAC limits from both the Federal and State perspectives.

SENATOR LAUTENBERG: Would you consider this as part of your reauthorization proposal for the Federal Surface Transportation legislation?

ANSWER: The 1988 legislation required NHTSA to study the entire issue of BAC limits and to report its recommendations to Congress. This study is under way and the first phase report to Congress is scheduled for September 1990. We will review the study findings to determine what Federal actions may be needed on this important safety issue.

AIRCRAFT NOISE

SENATOR LAUTENBERG: Many residents in New Jersey continue to be disturbed by noise resulting from FAA's implementation of the Expanded East Coast Plan (EECP). Efforts by the FAA have been largely unsuccessful in mitigating those problems. What efforts are now underway to improve the problems created by the EECP?

ANSWER: Since the initial implementation of the EECP, the FAA's Eastern Region office has initiated several efforts designed to provide noise relief to the residents of New Jersey. During the summer of 1989, FAA developed a prototype Standard Instrument Departure (SID) called "HUSH ONE." This procedure was designed with several variations to accommodate operational as well a community concerns. The "Newark Three Departure SID" (implemented in January 1990) is a result of those efforts. This procedure disperses noise and requires westbound runway 22L/R departure traffic to approximate departure tracks in place prior to the implementation of EECP. Additionally, between 11 p.m. and 7 a.m. daily, arrival aircraft in the vicinity of Broadway, New Jersey, are kept at higher altitudes for longer periods of time in order to provide noise relief.

As you are aware, combined aircraft operations for Newark and Teterboro Airports totaled approximately 560,000 operations during 1989. The addition of Morristown and Essex County Airports bring this total to approximately 600,000 operations annually. As long as this frequency of air traffic continues, aircraft noise will continue to exist. However, the Department and the FAA remain committed to reducing the effects of noise on the airports' neighbors. The FAA will continue open dialogue with the communities in hopes of reaching even better understandings of their concerns, and will continue efforts to balance those concerns against demands for increased system capacity.

SENATOR LAUTENBERG: The EECP was implemented without an environmental impact statement being performed, in accordance with FAA policy exempting changes in flight patterns over 3,000 feet from such requirements. Does the Department still support this policy? What changes would the Department recommend to allow better public participation in consideration of major changes to air traffic routes like the EECP?

ANSWER: Although the FAA was not required to perform an environmental review of the EECP, numerous efforts have been initiated to address the noise concerns of the communities underlying the EECP routes. The exclusion from environmental review of certain air traffic changes above 3,000 feet AGL is still valid, however, we are working to better identify when to use this exclusion. Our intent is to create a method that would help us anticipate when our proposed actions may be highly controversial.

SENATOR LAUTENBERG: Use of Stage 3 aircraft can provide significant relief to areas affected by aircraft noise. Does the Department support a mandatory phasing-out of Stage 2 aircraft? If yes, by what date does the Department believe Stage 2 aircraft should be phased out? Are there plans within the Department to require such a phase-out? Has the Department looked at cost considerations - to air carriers and consumers - of such a phase-out?

ANSWER: The recently released National Transportation Policy states that three elements--the impact of noise restrictions, phasing out of Stage 2 aircraft, and effective land use controls around airports--should all be considered in resolving the aviation noise problem. In the area of aircraft phase-out, the FAA will work with the aviation industry, State and local governments, and affected community groups to facilitate the orderly and expeditious phaseout of Stage 2 commercial aircraft. As part of that process, the effective date of a phaseout will be discussed and evaluated. The report to Congress on the status of the U.S. Stage 2 commercial aircraft fleet submitted in August 1989, contains extensive information concerning the cost of phasing out these aircraft under various scenarios.

QUESTIONS SUBMITTED BY SENATOR BYRD

COAST GUARD COMPUTER CENTER MOVE TO WEST VIRGINIA

SENATOR BYRD: I am concerned about the recurring changes in the specifications which have resulted in a delay of over six months in the completion and occupancy of the new facility.

ANSWER: The changes in the specification reflected the changes in requirements to support the Joint Maritime Information Element. More space for more people was needed, and many of the construction details had to be tailored to Coast Guard's unique requirements. We expect that no more changes will be needed.

SENATOR BYRD: May I have your assurance that there will be no further delays in this project and that you will work closely with GSA in adhering to the acquisition schedule?

ANSWER: We expect no further changes and will work closely with GSA to maintain and expedite the current acquisition schedule.

SENATOR BYRD: May I be kept fully informed regarding accomplishments of each of the milestone events in the schedule?

ANSWER: We will continue to keep your staff informed of our progress. As of this writing, GSA is in receipt of the best and final offers on proposals for the Martinsburg computer facility. We expect GSA's recommendation by mid-April, 1990.

CONSTRUCTED FACILITIES CENTER WEST VIRGINIA UNIVERSITY

SENATOR BYRD: At my request, the Senate report accompanying the FY 1990 Transportation Appropriation bill included language earmarking $500,000 for low-cost bridge technology involving wood. It is very important that this project proceed in connection with similar types of research being conducted by the U.S. Department of Agriculture's Forest Service. Could you please update the Committee on the progress made to date on this Project?

ANSWER: On January 10, 1990, the Federal Highway Administration (FHWA) initiated a meeting of members of the United States Department of Agriculture Forest Service (USDA-FS), American Association of State Highway and Transportation Officials (AASHTO), and researchers from the West Virginia University Constructed Facilities Center to form a Timber Bridge Research Council (TBRC). The TBRC was formed to provide guidance to the timber bridge program and coordinate timber research with other Federal, State and local government agencies, and industry representatives and is co-chaired by FHWA and the Forest Service.

A meeting of the TBRC will be held on March 19 at the USDA Forest Products Laboratory in Madison, Wisconsin, to develop recommendations for coordination of timber bridge research. A list of timber bridge research needs will be developed at this meeting. The list will then be presented to AASHTO for its endorsement at the annual bridge meeting in May. The $500,000 earmarked for low-cost bridge technology is expected to be utilized by West Virginia University (WVU) to address this list of needed studies, beginning with a $300,000 effort in FY 1990.

SENATOR BYRD: The Constructed Facilities Center is conducting very promising research in the area of non-corrosive materials (polymers, ceramics, and wood). Has the Department ever done estimates of the dollar amount of damage done to the nation's highways and bridges because of corrosion? If so, what were those results?

ANSWER: According to the National Academy of Sciences Strategic Highway Research Program, de-icer chemicals and exposure to the marine environment has, to date, resulted in $25 billion of corrosion induced concrete deterioration on thousands of the nation's reinforced concrete bridges. Most of these bridges were built before the mid 1970's with unprotected black steel reinforcing and very permeable concrete, allowing salt de-icers to corrode and damage the reinforced concrete bridge components. Today's structures incorporate the use of epoxy coated steel reinforcing, low permeable concrete and concrete admixtures to greatly reduce the potential damage to reinforced concrete bridges. Deterioration (corrosion) of steel and timber bridges has also occurred. Proper maintenance and new materials (better paints for steel or timber preservatives) is greatly reducing these forms of deterioration also.

SENATOR BYRD: Has the Department conducted cost/benefit or life cycle cost analyses of using composite building materials on bridges versus steel structures?

If so, what were the results of those studies?

ANSWER: No. The substitution of fiber reinforced plastics for use as structural shapes, such as built-up beams, will require a substantial cost reduction in the manufacturing process before they will be cost effective. This cost reduction could perhaps be achieved by a commitment of Federal and private sector research and development funding to decrease the cost of producing materials and manufacturing structural components. At that time, better data will be available to determine life-cycle costs of these new materials as well as allow us to better understand their performance characteristics under highway type loadings.

SENATOR BYRD: In addition to the timber bridge research, what other research efforts is the Department conducting in the area of non-corrosive materials that could be used for bridge and barrier construction?

ANSWER: The FHWA is actively involved with several researchers, including those at West Virginia University, investigating alternative materials for structural applications. In addition to the research on fiber reinforced plastic rebars at WVU, research studies are being conducted at California State University at Long Beach, Catholic University, Cornell University and the University of Delaware on application of composite materials. Some studies include 1) investigating the transfer of composite technology to the design and construction of bridges, 2) evaluating the performance of a modular fiberglass bridge deck system, and 3) characterizing the fatigue behavior of composite cables for suspended bridges. Experimental research on fiber reinforced composite bridge decks is also underway at the FHWA Research facility in McLean, Va.

The FHWA actively participated in a recent National Science Foundation workshop to develop structural applications for advanced composites and is actively involved in the Transportation Research Board's Task Force on Structural Applications of Fiber Reinforced Plastics. FHWA is planning a major commitment of research and development funds in its post 1991 program to identify and develop alternative highway materials for the 21st Century use. A good reference on this subject is the report produced by the Congress of the United States, Office of Technology Assessment, titled: Advanced Materials by Design, U.S. Government Printing Office, June 1988.

MARTINSBURG, WEST VIRGINIA TERMINAL RADAR APPROACH CONTROL FACILITY (TRACON)

SENATOR BYRD: In the Senate report accompanying the FY 1990 Transportation Appropriation bill, at my request, the Committee directed FAA to study the need for a TRACON facility in Martinsburg, West Virginia. As you know, such a facility could also serve the needs of neighboring airports such as Hagerstown, Maryland and Winchester, Virginia. What is the status of the study?

ANSWER: The FAA has completed the study on the feasibility of establishing a TRACON to provide area approach control services. Presently, this study is being finalized and will be completed in March 1990.

SENATOR BYRD: What is the primary criteria used for TRACON site selection?

ANSWER: The FAA uses a two-phase process for allocating air traffic services. Phase-I uses a set of established criteria to identify potential candidates. A site-specific computerized cost/benefit screening process is conducted in Phase-II to further evaluate candidates identified under Phase-I. The FAA policy and criteria are contained in the Airway Planning Standard Number One - Terminal Air Navigation Facilities and Air Traffic Control Services, FAA Order 7031.2C, Chapter 2, Section 26(e).

SENATOR BYRD: Often a smaller airport is caught in a Catch-22 situation in which it does not qualify for advanced radar because of its low number of flights, and often cannot attract a higher number of flights because of poor equipment. How does the Department plan to assist airports so that they may help relieve congestion at the larger airports and improve overall safety?

ANSWER: The FAA has established guidelines to determine whether an airport meets the criteria for each type of equipment and services. The airport sponsor can initiate the evaluation process for upgraded air traffic services by contacting their FAA Regional Airports and Flight Standards offices. Also, most states have aeronautics offices which can provide guidance in attaining system improvements.

In those cases where a true aeronautical requirement, such as adverse weather conditions, and precipitous terrain exists that can adversely affect aircraft operations or the safety of the flying public, they may be used as the sole criteria to justify improvements to the air traffic system.

SENATOR BYRD: What is the FAA's policy on recycling radar systems from the larger airports to the smaller airports?

ANSWER: Many of the locations receiving the new ASR-9 systems will pass their present equipment to lower activity locations to replace the older antennas. However, the recycling of the surplus oldest radar systems does not normally provide a favorable cost vs benefit factor for their redeployment. Many of these systems are approximately 20 years old, and cannot be logistically supported.

SENATOR BYRD: Is this a cost-effective way of assisting smaller airports in upgrading their radar capacity?

ANSWER: The redeployment of surplus radar equipment is normally not a cost-effective way of upgrading non-qualifying smaller airports' capacity. This surplus equipment is usually beyond its life cycle, and is very hard to maintain. Sustaining this equipment becomes cost prohibitive.

Although the establishment of terminal radar approach control services will usually help foster economic growth, an airport must first meet the basic establishment criteria. Usually this is accomplished through the realization of long range processes contained in a master plan.

SENATOR BYRD: I strongly believe that an upgrade at Martinsburg will benefit not only that immediate area, but air traffic control in the region, and I strongly urge that the FAA assist Martinsburg in the effort to upgrade their existing flight control systems. May I have your assurances that FAA will explore the ways that Martinsburg might upgrade its existing navigation and flight control equipment?

ANSWER: You may be assured that the FAA will continue to monitor the air traffic activity in the Martinsburg area and improvements will be made to the system based on air traffic requirements and established criteria.

HIGHWAY TRUST FUND

SENATOR BYRD: Mr. Secretary, in testimony before this subcommittee last year, together we identified that, at the end of the current authorization (1991), and at the end of the collection of taxes (1993), associated with that authorization there would be a surplus in the highway trust fund. Is that not correct?

ANSWER: Yes, that is correct. But that scenario ignores the reality that additional contract authority will be enacted and committed for the years 1992 and 1993, and so any amount "left over" at the end of FY 1991 would in no way be a real surplus.

SENATOR BYRD: Recognizing that there will be many requests for that money, is it still not true that using this balance would not disadvantage or take funds away from any of the existing highway categories?

ANSWER: That too is correct in the circumstances you have posed; using that balance would not take funds away from any existing categories or currently enacted authorizations. But using that balance would run the very real risk of taking funds away from existing (or new) categories and authorizations for 1992 and 1993. If tax revenue and interest estimates for 1990 and 1991 prove to be too high, or outlay estimates too low, we would incur the operation of the "Byrd Amendment" and reduce the state-by-state apportionments for 1992 and 1993.

SENATOR BYRD: What is your current estimate of the balance available at the end of the current law's authorization and tax collection?

ANSWER: For budget authority through FY 1991, and estimated taxes and interest through FY 1993, the FY 1991 President's budget results in an estimated cash balance of $9.1 billion derived as follows: the cash balance at the end of 1991 ($11.6 billion) together with the taxes and interest for 1992 and 1993 ($30.8 billion) is $9.1 billion larger than the commitments left [illegible]id ($33.3 billion) at the end of 1991. This assumes no new authorization in FY 1992.

If that amount was available in 1991 for obligation, it would raise outlays and the Federal deficit by $1.5 billion in 1991 and by $4.8 billion in 1992.

SENATOR BYRD: Has this changed from your estimate of last year? If so, how and why?

ANSWER: Yes, it has changed somewhat from the corresponding estimate of $8.8 billion in the FY 1990 President's budget. That estimate was made as follows: the cash balance at the end of 1991 ($12.2 billion) together with the taxes and interest for 1992 and 1993 ($29.8 billion) was $8.8 billion larger than the commitments left unpaid ($33.3 billion) at the end of 1991. The increase to the $9.1 billion estimate of the 1991 budget is the net result of all the 1991 estimates which take into account 1989 actual experience and 1990 actual appropriations.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

SENATOR BYRD: Mr. Secretary, as you know, the Appalachian Regional Commission (ARC) highways were established in 1965 as part of the Appalachian Regional Commission. Today, there is still about 1,000 miles of that system yet to be constructed. What is the Department's estimate of the cost to complete the remaining mileage?

ANSWER: In 1989, the estimated total cost to complete the Appalachian Development Highway System was $7.1 billion.

SENATOR BYRD: Last year, you indicated that there are insufficient funds to finish the ARC highways under the federal-aid highway program as it now exists. Yet, you stated that, in relation to your national transportation plan"...(you) would hope that the Appalachian region corridor highway project would play a role in that plan." Could you tell me today (within your plan) how construction and completion of the ARC highway system might be sped up?

ANSWER: The Appalachian Development Highway Program is a non-Title 23 funded program. Funds for this program come from the General Fund under Energy and Water Development Appropriations Acts. The ARC has the responsibility and the lead under Title 23 for making requests to the Congress for appropriations for this program. The Appalachian Development Highway System is also part of the Federal-aid Primary System, and the States may, at their discretion, use Federal-aid Primary funds for completing the Appalachian Development Highway System. In addition to Federal funds, State, local and private sector funds may be used to construct the system. A combination of these funds could speed up completion of the system. We will also be taking a close look at the Appalachian Development Highway System as we work with the Congress on the reauthorization of the program.

SENATOR BYRD: May I have your assurance that we will continue to work together on finding ways of moving the ARC highway system forward?

ANSWER: The Department will continue to work with you on finding ways to move the Appalachian Development Highway System forward.

MID-ATLANTIC AVIATION TRAINING AND EDUCATION CENTER

SENATOR BYRD: At my request, the Senate report accompanying the FY 1990 Transportation Appropriations Bill included language earmarking "$3 million to assist in establishing the Mid-Atlantic Aviation Training and Education Center in Clarksburg, West Virginia." This Center will be administered by Fairmont State College in West Virginia.

As I indicated to you in my letter of January 3, 1990, I strongly support this program which I feel is urgently needed at a time when the aviation industry is experiencing significant growth, which has resulted in an increased need for a qualified work force trained in the latest airframe, power plant, and avionics technology as well as for safety inspectors and field maintenance personnel. In that letter, I also asked to be supplied with a status report of this project, including significant milestone events, leading to full implementation of the above-mentioned report language directive relating to West Virginia, which was included in Senate Report 101-121 and Conference Report 101-315. To date, I have not received a reply to my letter to you of January 3 or a status report on the program.

Subsequently, I followed my January 3 letter to you with a letter dated February 9, in which I called to your attention the clear intent of Congress regarding the earmarking of funds for this project and in which I urged your expedited efforts to assure the early release of the funds.

I ask unanimous consent that both letters be included in the record at this point.

In summary, Mr. Secretary, I have written to you twice regarding my strong support for this urgently needed project. I am concerned that there not be any further delay in the release of the funds. It is very important that this project proceed in connection with the other projects at the Mid-Atlantic Aerospace Complex. Therefore, I strongly urge that the initial planning and operational funds be released immediately. May I have your assurance on this matter?

ANSWER: We are working with officials at Fairmont State College to arrive at a grant agreement for this project. The Department has advised the school officials that the FAA lacks the legal authority to enter into a grant agreement for the entire $3,000,000 project for the establishment of Mid-Atlantic Aviation Training and Education Center. There is, however, authority under Section 319 of the Department of Transportation and Related Agencies Appropriations Act, FY 1990 to fund the architectural and engineering study for this academic facility. Accordingly, we have advised school officials of the procedures for filing the formal application for these funds.

[The letters from Senator Byrd follow:]

LETTERS FROM SENATOR BYRD

January 3, 1990

The Honorable Samuel K. Skinner
Secretary
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Secretary:

Now that the Fiscal Year 1990 Transportation Appropriation bill has been signed into law (P.L. 101-164), I would be very appreciative if you would supply me with a status report, including significant milestone events, leading to full implementation of the following report language directive relating to West Virginia which was included in Senate Report 101-121 and conference report 101-315. In this connection, the following report language requirement is called to your attention:

- Language providing $3,000,000 to assist in establishing the Mid-Atlantic Aviation Training and Education Center in Clarksburg, West Virginia.

The purpose of this letter is to express my strong support for this program which I feel is urgently needed at a time when the aviation industry is experiencing significant growth. This growth has resulted in an increased need for a qualified workforce trained in the latest airframe, power plant, and avionics technology as well as for safety inspectors and field maintenance personnel.

The additional funding provided by the Committee is in response to this need and would be used to assist in establishing the Mid-Atlantic Aviation Training and Education Center at Clarksburg, West Virginia and implementation of a proposal by Fairmont State College to establish such a training center to be located at the West Virginia Air Center.

Thank you for your attention to this matter. I look forward to your early and favorable response. Your cooperation in keeping me fully informed regarding the implementation of the report language will be genuinely appreciated.

With kind regards, I am

Sincerely yours,

Robert C. Byrd

Robert C. Byrd
Chairman

February 9, 1990

The Honorable Samuel K. Skinner
Secretary
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Secretary:

This follows up on my letter to you of January 3, 1990, regarding progress to date on the language earmarking $3 million to assist in establishing the Mid-Atlantic Aviation Training and Education Center in Clarksburg, West Virginia. As you may recall, the funds were earmarked in Senate report 101-121, dated September 7, 1989, and House conference report 101-315, dated October 26, 1989.

I am advised that it is important that the funds be released as soon as possible, so that the Mid-Atlantic Aviation Training and Education Center can be constructed in coordination with the other construction projects constituting the Mid-Atlantic Aerospace Complex to be located at Clarksburg, West Virginia.

The purpose of this letter is to call your attention to the clear intent of Congress regarding the earmarking of funds for the Mid-Atlantic Aviation Training and Education Center and to urge your expedited efforts to assure the early release of the funds.

Thank you for your assistance. Your early and favorable response will be genuinely appreciated.

With kind regards, I am

Sincerely yours,

/s/

Robert C. Byrd
Chairman

QUESTIONS SUBMITTED BY SENATOR HARKIN

SECTION 511 PROGRAM

SENATOR HARKIN: Last year, Senators Levin, Pressler and I sought continued funding for the railroad loan guarantee program which has not been funded for a number of years. It passed the Senate. But, it was not approved in conference for a number of reasons.

I believe that there should be a continuation of loan guarantees to railroads under the Section 511 program. It could make a real difference in the survival of a number of smaller railroads and the preservation of significant rail service, especially in rural areas of the country.

Over the past decade we have seen numerous new small and regional railroads established that they are very important to their areas. Many of those companies were established with very limited operating capital and at interest rates that are higher than they would have been if the companies where in better financial shape.

If these companies do not have the funds to maintain and improve their track and other facility and equipment needs, they will not only become less efficient, they could cease operations.

Would you have the Department look at the need for more capital for operations, equipment purchases and track improvements by the newer regional and short line railroads?

ANSWER: The Department at this point is unconvinced that section 511 funding should be provided. In 1989, we provided a report to the Appropriations Committee estimating the extent of deferred maintenance in the track of regional and shortline railroads. While that study showed a total need of $600 million, it also showed that the majority of the traffic was being handled by railroads with little or no need for external funding for track rehabilitation. We also indicated that state and shipper programs may be a source of funding. In addition, in recent years several private banks have provided significant funding for regional and shortline railroads.

In any event, a large percentage of the work required would probably not be eligible for section 511 funding because the prospective earning power of the company, coupled with assets that could be offered as security, would be unlikely to support a finding that such loans would be repaid. These companies are usually highly leveraged with few, if any, unencumbered assets.

We will give further consideration to the need for such funding for some of this track work, as well as for such purchase or for refinancing. However, acquisition of new or upgraded equipment can usually be financed from ordinary commercial lenders. Also, since section 511 funding could be provided on more favorable terms than non-guaranteed private bank financing, such government competition would tend to disrupt the private lending market.

SENATOR HARKIN: I would also ask that you have the Department look at the danger of the loss of rail service by these newer railroads and the negative effect that would have on shippers and the highway system.

ANSWER: Studies which have been made of the impact on shippers from the loss of rail service indicate that most shippers remain in business although profit margins may be reduced by increased costs associated with highway transportation. I believe decisions regarding continuation of rail service versus transferring the traffic to the highway can best be made by the state and local governments and agencies.

SENATOR HARKIN: Please provide the Committee within the next three months with suggestions on how the 511 loan guarantee program could be modified to reduce possible losses to the Treasury under present regulatory provisions.

ANSWER: We will look carefully at ways in which the section 511 program could be modified to reduce possible losses to the Treasury, and will report our results to the Committee.

MAGLEV — USE OF FEDERAL FUNDS

SENATOR HARKIN: Maglev and other high speed rail passenger technologies are being considered for many areas of the country. It could provide a number of improved efficiencies for our economy. What is the Department's position concerning the use of additional Federal funds for research and development of high speed rail services?

ANSWER: The Administration believes that U.S. maglev systems should be developed and implemented primarily by the private sector, but the Federal government can play an important role in fostering research into technology advances and in identifying corridors where maglev can be a cost-effective transportation alternative. Maglev technology can have an effect on other transportation modes, and is of interest to other cabinet agencies. We recognize, however, that maglev development has technical and economic risks associated with it.

The President's FY 1991 Budget provides for a Federal-industry assessment of the technical and economic issues associated with the development, manufacture, and implementation of a U.S. technology based maglev system. This activity will lead to a prospectus for individual maglev markets to determine the capacity for private financing based on projected cash flow and for state and local financing based on projected benefits. The Budget also provides for development of safety standards and requirements for maglev applications in the U.S. in accordance with the responsibility assigned in the Rail Safety Improvement Act of 1988.

U.S. COAST GUARD

SENATOR HARKIN: Your budget proposes to establish a user fee associated with the cost of Coast Guard licensing and other vessel activities. Could I have additional specific information on this proposal beyond the information indicated in the budget?

ANSWER: The President's FY 1991 budget assumes the collection of $200 million in Coast Guard user fees, shown as proprietary receipts. The budget states that the fees are to be derived by charging each recreational and commercial boater using waterways patrolled by the Coast Guard $25 annually for a decal, and charge direct fees for specific Coast Guard services, such as licensing and inspections. Direct fees are charged for specific services provided to specific individuals or businesses. They are based on the actual costs of providing the services. Indirect fees are for services which benefit major segments of the maritime community, such as recreational boaters. The charges represent only a portion of the total cost of providing the services. The major indirect services are search and rescue, and aids to navigation. A third indirect service, boating safety, benefits recreational boaters, not commercial vessels. While the proposal would pull in approximately $150 million in indirect fees ($25 times 6 million boats and vessels), Coast Guard estimates that the cost of providing search and rescue and aids to navigation services in 1991 exceed $987 million dollars. The indirect fees would probably be in the form of a one-time charge, providing a decal to be affixed to the purchaser's vessel or boat. It would be made available in a convenient manner, such as through the Postal Service.

The following list of direct fees, taken from the Administration's proposed user fee legislation submitted last Spring, is an example of the fees that might be established.

FEE SCHEDULE

MARINE LICENSING AND DOCUMENTATION USER FEE SCHEDULE

LICENSING ACTIVITY FEES:

Licence Type	Evaluation Fee	Examination Fee	License Issue Fee	Total Fee
Upper Level Deck	$60	$150	$40	$250
Lower Level Deck	50	60	40	150
Upper Level Engineer	60	150	40	250
Lower Level Engineer	50	60	40	150
Renewals	10	5	10	25
Endorsements	25	15	10	50
Duplicates	15		25	40

DOCUMENTATION FEES:

Document Type	Evaluation Fee	Examination Fee	Document Issue Fee	Total Fee
Original Temporary	$15		$10	$25
Original Card	15		25	40
Qualified Rating	25	$15	25	65
Duplicate	15		25	40

INSPECTION USER FEE SCHEDULE

FIXED ACTIVITY CHARGE

Permit to proceed — All Vessels: $486

Excursion permit — All Vessels: $392

	Certificate of Inspection	Reinspection	Dry Dock Extension
Freight Barge	$696	$530	$444
Freight Ship	5,129	3,406	612
Industrial	2,472	1,459	589
LNG/LPG	16,549	7,854	4,845
MODU	4,515	2,521	855
OSV	1,144	818	393
Passenger Ship	2,400	1,019	465
Passenger Barge	973	582	369
Research	4,298	2,548	588
School Ship	9,414	9,414	544
T-Boat	861	632	368
Tank Barge	703	529	336
Tank Barge OD	619	455	268
Tank Barge OI	785	612	355
TUG/TOW	2,293	2,265	505
Tank Ship	5,650	3,290	1,007

VARIABLE ACTIVITY CHARGE

For the following inspection types an hourly charge of $64.00 per hour is used to determine the user fee:

Hull Exam
Marpol Survey or Test
Construction
Damage Survey
Initial Certification
Plan Review
Factory Inspection
All Others

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

WASHINGTON METRO (WMATA)

SENATOR MIKULSKI: I believe it is essential to the residents of the Washington Metropolitan Area that the Metro system be completed. The FY 1991 budget proposal does not include sufficient funding to accomplish this. It is set at a level of $37 million dollars below the FY 1990 appropriation. Director (sic) Skinner could you provide the Committee with your justification for not fully funding the Washington Metro to complete the construction presently underway.

ANSWER: The Administration's FY 1991 budget proposal provides sufficient funds to carry on the work of completing the Metrorail system described in the Full Funding Agreement with WMATA. Our present funding plans call for the following budget proposals which will exhaust the Stark-Harris Authorization while providing sufficient funds to bring the proposed 89.5-mile segment into operation on schedule:

FY 1991	$38.0 million
FY 1992	$30.0 million
FY 1993	$30.0 million

The difference between our budget request and WMATA's budget request of $64 million for FY 1991 can be found in two line items, start-up and claims. The Administration contends that it is not yet necessary to fund these line items to the extent of the WMATA request. The WMATA request would have all the start-up funds provided in FY 1991 even though the segment to Greenbelt is not scheduled for revenue operations until the close of 1993. With respect to the claims line item, WMATA is asking for funding far in advance of need. WMATA has claims dating back to 1971 whose resolution is still pending.

The Metrorail construction program is winding down, all major construction is fully funded and all that remains is the need to fund the engineering, project management and start-up costs. We have prepared our budget request with an eye to the efficient use of Federal funds while making sure that the funding request was sufficient to allow the project to proceed on schedule.

AMTRAK

SENATOR MIKULSKI: Mr. Secretary everyone wants Amtrak to be self- sufficient. It is moving in that direction but we can't pull the plug on it this year. Realistically there has to be some Federal commitment. Congress has been clear and consistent on this. I am asking why you have not budgeted funds for Amtrak.

ANSWER: Current budget constraints limit the availability of funds to cover Amtrak's subsidy needs. The President's budget represents the Administration's highest priorities for transportation programs, given the constraints of deficit ceilings imposed by Gramm-Rudman-Hollings. Over the past few years, Amtrak has made significant progress in increasing its ridership and improving its revenue-to-cost ratio. Although Amtrak continues to break records in revenues, passenger miles, and operating costs covered by revenues, the railroad still loses over half a billion dollars annually. The Federal subsidy averaged $27 per passenger (based on FY 1989 subsidy and ridership data).

The Administration is eager to work with Amtrak, Congress and other interested public and private parties to develop a long-term strategy that will help Amtrak to meet its capital needs, make its services more cost effective, and reduce its dependence on Federal subsidies. Such a strategy might include labor reforms, service changes, fare increases, and legislation to (1) reduce labor cost (e.g., FELA and railroad unemployment); (2) require states to pay for the operating deficit on the intra-state and intercity trains that Amtrak is statutorily required to operate at state request; and (3) modify labor protection provision to enable Amtrak to make its route structure more cost effective.

BALTIMORE WASHINGTON PARKWAY

SENATOR MIKULSKI: The Department of Transportation continues to list the rehabilitation of this parkway as a low priority project. It was not considered low priority by the Congress when it appropriated 12 million dollars in FY 1991. This is a major link between Maryland the Nation's Capitol. Could you explain why it is not on the high priority list?

ANSWER: While it is true that the Department of Transportation does not request FY 1991 funds for the Baltimore Washington Parkway reconstruction project, the Department's budget does not contain requests for any other specific highway projects. This does not mean, however, that the Parkway has a low priority need. Rather, the overall budget spending levels do not allow for funding such individual projects. Technically, the Parkway is under the jurisdiction of the National Park Service and, as such, it is eligible for Park and Parkway funds within the Federal-aid Highway program.

OPERATOR QUALIFICATIONS AND FATIGUE PREVENTION

SENATOR MIKULSKI: I am a strong supporter of fitness for duty for workers operating modes of transportation. What new initiatives is your department undertaking that will keep operators from causing accidents because of fatigue and improper training?

ANSWER: In addition to our drug-free workplace program, the Department of Transportation has for the past several years been working to implement new and tougher requirements for operator qualifications in all modes of transportation. In the commercial motor carrier industry, we have recently established a commercial drivers license program that will specifically test drivers on the requirements for over the road commercial vehicle operations. This, together with a nationwide system for checking the prior violation history of drivers, will do much to ensure that drivers exercise the proper skills and safety behind the wheel.

For the maritime industry, we are in the process of a major revision of the existing rules governing the issuance of seafarer licenses and qualifications. We are reducing the number of license categories and, in conformance with the international maritime community, are increasing the knowledge and experience requirements that licensees must possess to operate many classes of vessels.

A Federal Railroad Administration regulation published last year will result in a uniform set of standards being established for locomotive engineers on all common carrier rail lines. Additionally, laws and regulations governing railroad employees have recently been changed. Employees are now directly responsible for knowingly causing an unsafe situation, and penalties—both civil and criminal—have been established for such acts.

We already have in place regulations that set the maximum allowable blood alcohol concentration for commercial transportation operators at 0.04 percent—well below the legal limit for private drivers in most states. We recently began rulemaking that could result in still more stringent limits and in testing requirements similar to those of our anti-drug abuse program.

We are also interested in preventing fatigue-induced accidents. Besides the Department's efforts to reduce, in certain cases, the allowable hours that a commercial motor vehicle operator can drive at one stretch, we are also studying the causes of fatigue of operators in all modes. FHWA is presently administering a major contract that seeks to better understand operator fatigue. From this research, we will be in a better position to take initiatives to reduce the risk of fatigue-induced mishaps.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

AGING AIRCRAFT

SENATOR DOMENICI: Mr. Secretary, you indicate in your prepared testimony that the Department's request of $190 million for FAA research, engineering and development will be utilized to address immediate needs, such as aging aircraft. Could you briefly describe the FAA's existing research program on aging aircraft? How much is the FAA spending in FY 1990 on this effort?

ANSWER: In October 1989, a 2nd International Aging Aircraft Conference was held by FAA for the purpose of reporting the status of studies relating to issues involving fatigue/fracture, corrosion, nondestructive inspection (NDI), flight loads, human factors and repair. Research presently underway includes the development of a damage tolerance procedure handbook (with and without multi-site damage), evaluation of commuter aircraft structures, and the review and recommended update of existing NDI and corrosion protection advisory circulars. FY 1990 research funds are set at $5.5 million for these purposes.

SENATOR DOMENICI: How much does the Administration propose to spend on this research in the FY 1991 budget request? Would you please provide the Subcommittee with the details of the budget request for these research activities?

ANSWER: An aging aircraft research budget of $6.6 million is requested for FY 1991. Research planned during FY 1991 will focus on evaluation and demonstration of new emerging nondestructive inspection (NDI) systems and techniques, the establishment of engineering and field maintenance training procedures associated with corrosion protection and prevention, and completed human factor studies relating to evaluations of NDI inspector tasks, job performance aids and environmental concerns. Handbooks covering these areas of research, i.e., NDI, Corrosion Protection, and Human Factors, are being planned for publication in late 1991.

SENATOR DOMENICI: What is the Department's general strategy on this issue? Are the airlines participating in this research, and if so in what way?

ANSWER: The planned research studies have been reviewed by the FAA Certification and Flight Standard Regulatory Offices and the airline industry through the Airworthiness Assurance Task Force. The airlines and manufacturers are participating in several of these studies through field evaluation efforts and providing available training materials and structural test specimens.

SENATOR DOMENICI: What portion of this research is targeted to the development of technologies to improve inspection techniques for aircraft and their systems?

ANSWER: As previously described, an evaluation of new emerging nondestructive inspection systems and techniques is currently underway. This effort will, in part, consist of an identification and evaluation of new systems capable of providing improvements in current aircraft inspection performance.

SENATOR DOMENICI: Will the FAA enlist the assistance of other federal research entities, such as the national labs, and also the private sector in these initiatives?

ANSWER: Yes. Major contract efforts have and will continue to include research support through the military, NASA, Transportation Systems Center, industry organization, and universities.

NATIONAL TRANSPORTATION STRATEGY

SENATOR DOMENICI: Much of any transportation strategy will be incorporated in reauthorization bills for highways, mass transit, and aviation, due over the next several years. What is the Administration's timetable for delivering to the Congress legislative proposals to implement the strategy in these areas?

ANSWER: DOT will shortly transmit a comprehensive reauthorization for the Federal Aviation Administration, which also contains our proposal for an innovative local funding option involving passenger facility charges. The Department is continuing to work on highway reauthorization legislation. At this time, it is not possible to provide a definitive transmittal date to Congress. It is anticipated that highway legislation will be a part of a Surface Transportation bill that will include transit and highway safety.

SENATOR DOMENICI: As I understand the strategy document, the focus will not be on budget numbers. Even so, do you believe that the Administration's FY 1991 budget request fully supports the strategy's proposals for each mode of transportation?

ANSWER: As you note, the policy statement is neither a budget document, nor an authorization proposal. It presents fundamental principles and themes for sound transportation policy, which will require a variety of legislative, regulatory, budget, and program actions over the years. The statement notes a number of elements of the Administration's proposed FY 1991 budget that already move toward implementing the policy. These include the 17 percent increase in research spending, the renewed focus on safety and security, and the proposed 16 percent increase in the size of the aviation program reflected in the FY 1991 budget. The Administration is now developing its proposal for reauthorizing the highway, urban mass transportation, and highway safety programs for FY 1992, which will go further toward putting the new policy statement into action.

SENATOR DOMENICI: Outside groups, such as AASHTO, (American Association of State Highway and Transportation Officials) and ATA (Air Transport Association) have already proposed plans to significantly increase the levels of federal spending and draw down the trust fund balances. Secretary Skinner, do you believe the trust fund balances are too high? How will the strategy address bringing down the balances?

ANSWER: The Statement of National Transportation Policy calls for spending transportation trust fund balances in a fiscally responsible way over time. The Administration's proposed FY 1991 budget provides a concrete indication of how this can be done in the aviation program. For FY 1991, we are proposing to increase spending from the aviation trust fund (i.e. outlays) by $2.5 billion, $1.6 billion more than revenues. Under that proposal, by the end of FY 1991, the uncommitted balances in the trust fund would drop 16 percent, from $7.6 billion to $6.4 billion. By FY 1995, we project that the uncommitted balance would be cut by 53 percent, to $3.0 billion. If it weren't for the proposed increase in the ticket tax, this balance would actually became negative during FY 1994.

The budget and the policy statement maintain the principle that users should pay for their share of the cost of the aviation system. Cost allocation studies have shown that 85 percent of the costs are attributable to civil aviation users who pay user fees, and our proposals therefore call for the trust fund to cover 85 percent of the costs. In fact, however, the general taxpayers have been paying about 43 percent of FAA's budget, while users have only covered 57 percent. For the period 1982 through 1989, FAA has spent $35 billion while only $20 billion has been collected in aviation user fees and deposited into the trust fund. The difference has come from the General Fund.

The surplus has grown because of a provision in the law known as the "penalty provision," under which the amount of money that would otherwise be drawn from the trust fund for FAA operations is reduced by $2.50 for each $1.00 that appropriations for capital programs fall short of authorizations. Appropriations from 1982 through 1989 fell short of authorizations to the point that some $5.3 billion for FAA that would otherwise have come from the trust fund were instead drawn from the General Fund. Thus the fact is that the surplus is there only because we have been legally constrained from using the trust fund to pay for important operational activities such as salaries for air traffic controllers and those who maintain critical air traffic control equipment.

The situation of the highway trust fund is somewhat different. Although there is now a balance of more than $10 billion in the highway trust fund, the Federal government has incurred obligations to pay bills out of the Highway Account that exceed the cash balance. Payments for highway projects stretch out over several years, so the law requires user fee revenues to be continued two years beyond the authorization period for the spending program, meaning that we are counting on future revenues to pay bills that we have already incurred. For example, in comparison to Highway Account balances of $10.6 billion as of September 30, 1989, there were outstanding bills totalling $21.6 billion for highway and bridge projects that had already been approved but not yet completed. There was an additional $10.1 billion in spending authority that had been distributed to the States but not yet committed to projects, which will eventually be committed and result in bills to be paid.

Since 1982, expenditure levels from the Highway Account of the trust fund have exceeded receipts by nearly $7 billion. Interest income to the Highway Account during this period has totalled nearly $8 billion, covering the difference between expenditures and receipts. There is a risk in spending down the balance too far, in that the actual revenues might not match projections, and the trust fund might not be able to pay the bills outstanding against it, which now amount to about one and one-half years of estimated future income. If we were to make full use of two years of income, as the law provides, obligation levels could be increased by about 35 percent above this year's level for three years. That would reduce the cash balance by about $6 billion by the end of FY 1993. After that period, though, the obligation level would have to be reduced or highway user fees would have to be raised. As the Administration formulates its proposal for reauthorizing the surface transportation programs for FY 1992, we will be evaluating the appropriate role of the Federal Government as the Interstate Highway System nears completion, the needs for proper infrastructure repair and maintenance, and the level of resources required over the next several years to meet the needs we identify, including user fee receipts and outlays.

AMTRAK

SENATOR DOMENICI: Mr. Secretary, while your budget submission again proposes terminating the federal subsidy to Amtrak, I find interesting your budget's comments that:

> Amtrak's objective is to eliminate the need for federal operating subsidies by the year 2000... The Administration is eager to work with Congress, Amtrak, and other interested public and private parties to determine how best to obtain needed capital from the private sector and to make Amtrak services more cost-effective.

It is clear that Amtrak will be funded by Congress again this year. Given this outcome, do you have specific proposals for the Committee to consider in holding down Amtrak's Federal subsidy?

ANSWER: We do not know all the measures that would be required for Amtrak to become self-sufficient at this point.

The Department's strategy to help identify measures to achieve Amtrak self-sufficiency includes a study by an independent management consulting and accounting firm which would assist in identifying steps that need to be taken and financial payoffs of these steps. Amtrak is cooperating in this study in an effort to examine ways to improve efficiency in such major Amtrak functions as vehicle maintenance and train operations. The study will also look at ways to improve the financial performance of poorly performing routes.

We will also look at future development of high volume rail corridors and the possibility that Amtrak can improve its market share in these areas by more frequent and higher speed service.

SENATOR DOMENICI: Your budget speaks of working with private parties and raising capital from the private sector. Please provide the Committee with some examples of how the private sector can make Amtrak services more cost-effective.

ANSWER: Amtrak should contract out operation where service can be performed at an equal or improved level and costs savings will result. Opportunities such as contracting out food service and station operation throughout Amtrak should be explored. Amtrak has begun this process with the development of some of its Northeast Corridor stations such as New York Penn Station and approximately $234 million for the purchase of new cars, locomotives, stations and other equipment. Similar transactions will be possible so long as Amtrak can pledge sufficient collateral and can project continued financial successes and show how the new equipment can increase net revenues to cover the capital costs.

SENATOR DOMENICI: Do you consider selling parts of Amtrak's route structure to private operators a viable option? Do any of Amtrak's routes, including the Northeast Corridor, run at a profit?

ANSWER: Until a plan for self-sufficiency is completed, it would be premature to speculate on whether selling parts of Amtrak's route structure to private operators is a viable operation. None of Amtrak's routes operate at a profit. A few routes cover their long term avoidable costs but none recover their fully allocated costs.

SENATOR DOMENICI: Recently Conrail stock, which the Federal Government sold in 1987, was trading near $50 a share, almost double the issuing price. Are there any parallels between the performance of a privatized Conrail and Amtrak's future?

ANSWER: The freight and passenger businesses are very different. There are many rail freight companies that are profitable. We believe Graham Claytor has run Amtrak like a private business and his record has been impressive. It will take a continual concerted effort by management to build Amtrak's traffic base and develop other assets so that Amtrak can meet its break-even goal by the year 2000 and continue to build value beyond that.

AVIATION SECURITY RESEARCH

SENATOR DOMENICI: Mr. Secretary, could you describe for the subcommittee what research initiatives the FAA is carrying out with the increased funding provided by the Congress for aviation security in FY 1990?

ANSWER: The additional funds were allocated to (1) an expanded effort on the enhanced airport security demonstration at Baltimore-Washington International Airport, (2) development of alternative vapor detection prototypes in parallel with the chemiluminescence effort, and (3) an expanded effort to investigate promising new technologies through feasibility studies under the Broad Agency Announcement Solicitation.

SENATOR DOMENICI: Could you provide the subcommittee with a list of the demonstrations that are getting underway as part of the Administration's aviation security strategy?

ANSWER: The principal demonstration is one of enhanced security at Baltimore-Washington International Airport. This demonstration will include upgrades in security devices, communications, access control, barriers, and procedures at two terminals of the airport. It will also involve demonstrations of the latest explosive detection devices. Another major demonstration is the deployment and evaluation of the six TNA/dual sensor systems for screening checked baggage. To date two TNA units have been installed. These units will be evaluated in both public areas near the ticket counters and baggage make-up areas. In FY 1991, the FAA plans to purchase and deploy a limited number of vapor detectors for screening passengers as an operational evaluation and demonstration.

SENATOR DOMENICI: What does the President propose for aviation research and development efforts on improved aviation security for FY 1991 compared to FY 1990?

ANSWER: In FY 1991, the FAA proposes to begin prototype development on second generation explosive detection systems for screening checked baggage. These will upgrade and expand the capabilities of the first generation TNA systems in 4 to 6 years.

The FAA will expand its efforts in parallel development of prototype vapor detectors to promote competition. It will also purchase and deploy a limited number of vapor detectors for screening passengers as an operational evaluation at higher threat airports. Finally, the FAA proposes to build a dedicated explosives detection laboratory to enable its scientists and engineers to conduct research and development on new detection approaches, as well as to test and evaluate prototype and commercial security devices.

SENATOR DOMENICI: Does the Department propose specific funding to continue aviation security demonstration projects in FY 1991?

ANSWER: Yes, funds are requested for the continuation of the enhanced security demonstration at Baltimore-Washington International Airport and for the purchase, deployment, and evaluation of a limited number (about twenty) of vapor detection systems for screening passengers at selected airports. Funds for the evaluation and demonstration of the six TNA systems for screening baggage were allocated in prior years.

TECHNOLOGY TRANSFER TO INDUSTRY

SENATOR DOMENICI: Finally, you may be aware of my efforts to improve the transfer of technology from Federal research facilities to industry. Could you describe the process DOT and FAA have gone through to secure technology such as that developed by Sandia National Laboratory, for such demonstrations? For example, did Sandia come to the FAA, or did the FAA seek out Sandia?

What problems, if any, have DOT and the FAA experienced in gaining access to this, and other, technologies?

Is the FAA surveying technologies developed by the private sector for demonstration projects? There is a great deal of innovation in this area in the private sector. If the FAA is not looking to the private sector, why not?

ANSWER: The FAA has sought out and relied on the expertise and experience of the various national laboratories since the early 80's. For example, the FAA has worked with Sandia National Laboratories on vapor detection since 1984, with Los Alamos since 1983, and with Naval Research Laboratory since 1983. The FAA is a full participant in the coordinated activities of Federal agencies in anti-and counter-terrorism and in associated technical exchange committees. The FAA coordinates with and attends program reviews on physical and technical security with the Departments of Defense and Energy. It has a number of jointly funded efforts with other federal agencies. Regarding Sandia, FAA personnel were aware of Sandia's role as lead DOE lab in physical security and, through informal discussions, agreement was reached on the desirability of transfer of the Lab's expertise to the civil aviation arena.

The FAA and DOT have not experienced any difficulty in gaining access to technologies. In fact, as the FAA problems and needs have become widely know, it has been approached by a number of other agencies offering to transfer technology that might be useful. The number of interagency agreements and joint projects is indicative of good cooperation among agencies. There is a limit, naturally, in that it may not be appropriate to transfer highly classified technologies to the private sector typical of civil aviation.

The FAA continues to solicit the private sector for new concepts or devices relevant to civil aviation. In FY 1990, the FAA used a broad agency announcement on all aspects of aviation security to solicit help from industry and academia. Symposia directed at the academic community and industry were held. FAA personnel attended numerous meetings and conferences where equipment and devices were displayed. The Baltimore-Washington International Airport demonstration will include the "best" technologies that FAA and Sandia have identified.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

WAYPORTS

SENATOR GRASSLEY: There are numerous proposals circulating to build new airport facilities in "rural" parts of the country to handle "through traffic" in order to reduce congestion at high density airports. What is your opinion as to the viability of wayports?

ANSWER: Admiral Busey has formed a panel to study the feasibility of the wayport concept. The panel has not yet completed its work. Based on preliminary findings, however, there appear to be several drawbacks to the wayport concept:

- Since wayports would have no origin and destination passengers, airport revenues from concessions and parking (about 45 percent of airport revenues) would be very limited, thus requiring higher landing fees to support the wayport. This would put airlines using the facility at a competitive disadvantage.
- Wayports are intended to serve as transfer points or hubs. Most of the hub airports have ambitious expansion plans and a number of large cities are eagerly pursuing hub status. The market appears to be working without the need for intervention by the Federal government to encourage wayports.
- The wayport concept would have little effect on traffic at the busy airports in large urban areas in coastal regions where congestion is most severe and prospects for improvement are limited.

ESSENTIAL AIR SERVICE PROGRAM

SENATOR GRASSLEY: Your budget proposes a 23% decrease from 1990 funding levels to provide for an "orderly phase out" of the Essential Air Service program. Would selective airports be eliminated or would we be talking about an across the board cut for airports currently eligible?

ANSWER: The reference to a 23% reduction is misleading since the

FY 1990 level included $4.4 million in one-time subsidy. If we maintained FY 1990 service levels in FY 1991, we would need $26 million. Therefore, our request of $23.6 million requires only a $2.4 million — or 9% — reduction. A $2.4 million reduction will likely require ending service to about eight to twelve communities (based on the average cost of $225,000 per point served). As we get more recent information (i.e., 1989 calendar year traffic levels and rates in effect as of July 1, 1990), we will revisit the $200 per passenger criteria and determine what further tightening of the criteria will be required to reach the FY 1991 budget level.

TRANSPORTATION NEEDS OF THE OLDER DRIVER

SENATOR GRASSLY: One of the serious issues facing transportation in the coming decade is the aging driver. The aging population presents special transportation challenges which must be addressed. In your research efforts, are you looking at the special transportation needs of the older driver?

ANSWER: Much of our traffic safety research proposed in FY 1991 (e.g., alcohol/drugs and advanced technology to develop vehicle safety features to enhance the crash avoidance performance of vehicles) will provide a basis for addressing the needs of older drivers. However, no research funds are specifically targeted to the aging driver in FY 1991.

Research began in FY 1989, and will continue in FY 1990, to acquire and analyze data on the relationships between the health and medical status of older persons and their driving practices and crash involvement. FY 1990 research will also concentrate on older pedestrians in and around the special housing areas in which many older persons live. The program will include countermeasures such as designated safe routes, far side bus stops, and pedestrian training films.

RAILROAD SAFETY USER FEES

SENATOR GRASSLEY: As you know, many states, including Iowa, have attempted to raise funds for the financing of rail programs. These efforts have been unsuccessful as the fees were successfully challenged in the courts under provisions in the 4-R Act. Your proposal calls for an estimated $20 million in user fees. Do you have any specifics on how this user fee will be implemented?

ANSWER: The user fee proposal reflects the principle that users — not general taxpayers — should pay for the services they receive, in this case, the railroad industry. While the proposal reflects this policy, it would not cover the entire cost of the Railroad Safety program until FY 1992. The formula for the collection of user fees would be based upon the size of railroad operations, e.g., gross railroad operating revenues. Our proposal assumes that user fee legislation would be enacted at the start of FY 1991, and it would take from four to six months to implement the legislation. Therefore, user fee assessments would cover about 55 percent ($20 million) of the cost of the program in FY 1991. The cost of the full Railroad Safety program would be assessed in FY 1992.

ICC TRANSFER

SENATOR GRASSLEY: Your budget proposes $16.1 million to transfer certain rail programs from the Interstate Commerce Commission to your department. Which rail programs would be transferred?

ANSWER: Consistent with legislation transmitted to the Congress last year, the budget assumes sunset of the Interstate Commerce Commission at the end of FY 1990. The sunset legislation would transfer the following functions to DOT: (a) regulation of railroad rate reasonableness; (b) determination of whether rail abandonments meet the public convenience and necessity tests; (c) consideration of charges of discrimination among shippers and ports; (d) review of requests for competitiveness access, i.e., access by one rail carrier over the lines of another carrier; and (e) authority for preempting state regulatory decisions for intercity bus operations.

Rail antitrust functions would be handled by Justice, and handling of consumer complaints regarding household goods movement would transfer to the Federal Trade Commission.

INDUSTRY-UNIVERSITY COOPERATIVE RESEARCH

SENATOR GRASSLEY: In the FY 1990 Transportation Appropriations measure, the Committee provided $3 million for the start up of an industry-university cooperative research, technology development, technology training and education center to develop comprehensive responses and long range research programs to improve aviation reliability led by Iowa State University.

We believe that the Department of Transportation should move with all possible speed to implement this provision of the report so the center can proceed with addressing the crucial problems already identified by industry and government with a multi-modal nondestructive evaluation technology effort.

We would appreciate your providing the Committee with a timetable for the implementation of this provision of the Committee report.

ANSWER: The FAA has started negotiations with Iowa State University to develop the management process for the University Center. We expect to finalize this within the next six weeks.

As envisioned by FAA, the Center will function in four major areas as related to Aviation Systems Reliability. These areas include: 1) Technology Applications and Implementation, 2) Engineering, Research and Development, 3) Education and Training, and 4) Economics and Management of New Technology. An industrial advisory board will be selected and direct potential research requests, etc., to the FAA (primarily the FAA Technical Center) which in turn will task the "Center" to find a solution or to identify areas where additional investigation is needed.

SUBCOMMITTEE RECESS

Senator HARKIN. This hearing is recessed until 10 a.m., Thursday, March 29, in SD-138.

[Whereupon, at 12:47 p.m., Thursday, March 1, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 29.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, MARCH 29, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:04 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Frank Lautenberg (chairman) presiding.

Present: Senators Lautenberg, Sasser, Mikulski, D'Amato, Kasten, Domenici, and Grassley.

DEPARTMENT OF TRANSPORTATION

URBAN MASS TRANSPORTATION ADMINISTRATION

STATEMENT OF BRIAN W. CLYMER, ADMINISTRATOR

ACCOMPANIED BY:

- **ROLAND J. MROSS, DEPUTY ADMINISTRATOR**
- **JOHN A. CLINE, ASSOCIATE ADMINISTRATOR, BUDGET AND POLICY**
- **ROBERT H. McMANUS, ASSOCIATE ADMINISTRATOR, GRANTS MANAGEMENT**
- **LAWRENCE L. SCHULMAN, ASSOCIATE ADMINISTRATOR, TECHNICAL ASSISTANCE AND SAFETY**

OPENING REMARKS

Senator LAUTENBERG. We will call this meeting of the Subcommittee on Transportation, Appropriations Committee, to order and welcome Mr. Brian Clymer here today in his first appearance before this subcommittee.

We hope that you will enjoy this appearance, Mr. Clymer, and that we will have many other amicable meetings in the future. And that will be determined by how we work our way through the budget and so forth.

Fiscal year 1991 is going to be a tough budget year. And this subcommittee is looking at a request for a 16-percent funding increase for FAA and a 6-percent increase for Coast Guard over the 1990 enacted level.

Now, I want to say at the outset that I agree that these functions have to have more resources. But this is a question of Peter and Paul, because when we accept those recommendations from the President, we also get word that, in order to balance the total request for transportation function, those funds are going to come from other modes.

And Mr. Clymer has graciously helped provide increases in these areas by taking an overall 25-percent hit in this program.

You have all heard the rhetoric before—that the locals have to do more in the area of mass transit. But what you are not told is that the locals are and have been doing more. Since this and previous administrations took office, Federal support for transit has gone only one way, and that is down. And support by the locals has gone the other way—that is, up.

And I cannot see how any administration that said it wanted to develop a national transportation policy does not better recognize the interdependence of all the modes of transportation. More transit, very simply, means less dependence on foreign oil, cleaner air, less congestion, more productivity, and less wear and tear on our highways and bridges.

The new stores, office buildings, the renovations that have taken place in and around the stations of Washington's Metro system are perfect examples of what transit can offer an area. And as bad as the rush hour may be in and out of this city, just imagine what it would be like without mass transit.

The need for transit is not a parochial concern of big eastern cities. As chairman of this subcommittee, I get requests from every area of the country for transit aid. Whether it is a rail system for Honolulu, Salt Lake City, or Newark in my State of New Jersey; a transit tunnel for Seattle; high occupancy lanes in Denver and Houston; or new legs for already existing systems in Cleveland and Chicago.

I believe that there is a crisis regarding our infrastructure. It is unfortunate, but typically it takes a crisis before we act. Our air is polluted. More and more cities are considered nonattainment areas. And a study that I requested from GAO reported that congestion and time lost due to congestion is going to triple by the year 2005. A majority of our roads and bridges are now rated as deficient. And more and more we are depending on foreign oil. Infrastructure has not been the politically hot issue that AIDS and drugs and the homeless are. But I believe that it is time that we start making the investment necessary not only for today, but for our future.

So I look forward to hearing from the Administrator and his defense of the budget request. But before we hear from Mr. Clymer I would welcome my colleague from Wisconsin and ask if he would like to make a statement.

REMARKS OF SENATOR KASTEN

Senator **KASTEN**. Mr. Chairman, thank you.

I am also pleased to welcome Administrator Clymer in his first appearance before our subcommittee and look forward to working with him at UMTA on the appropriations for fiscal year 1991 and also on matters of importance to Wisconsin.

I am pleased with the retention of rural programs at essentially last year's level. And though we would like to see increased funding here and in other areas, the budget realities have at least not resulted in cuts in a number of those programs which are important.

Operating assistance is important to the systems in Wisconsin. And although the assistance for smaller communities has not been cut, I am sure that the proposal to cut the systems of urban areas—as the chairman referred to—of 1 million or more will be reworked by the committee.

UMTA should and will play an increasing role in urban transportation driven by the transportation and environmental demands in this Nation. And I look forward to working with you, sir.

And, Mr. Chairman, as we address the fiscal 1991 request and look to the future, I might say also that I think that here we have one more area, Mr. Chairman, in which at one point we are going to have to not only rework the administration's requests, but I think this committee is going to have to give a lot of thought to more use of the trust funds.

It does not directly impact here, but the fact is that in the highway trust fund we have dollars building up. In the airport trust fund we have dollars building up. And I know that you and I agree that we have got to do more to spend those dollars. People are being taxed for them. They ought to be used for the important infrastructure needs.

That is an argument that you all have with OMB. You are probably on our side and not on OMB's side. But that does not make any difference. I think overall, although it does not directly influence this, I think that this subcommittee is going to be looking very carefully at what more and more people are regarding as budget gimmickry with the use of these trust funds to offset deficits in other parts of the Government and the dollars not being used for the purposes that taxpayers and citizens think they are, in fact, being used for.

So I look forward to this testimony, and I look forward to working with you, Mr. Chairman.

Senator LAUTENBERG. Thank you very much, Senator Kasten.

Mr. Clymer, the floor is yours.

STATEMENT OF BRIAN CLYMER

Mr. CLYMER. Thank you very much, Mr. Chairman.

I would like to paraphrase my remarks this morning and submit an exact copy for the record if I might.

Senator LAUTENBERG. Without objection.

Mr. CLYMER. My name is Brian Clymer. I am the Administrator of the Urban Mass Transportation Administration. It is certainly my privilege to appear before you this morning to present and discuss the President's proposed fiscal year 1991 budget for programs of Federal assistance in the area of urban mass transportation.

Before continuing, let me introduce my colleagues who are joining me at the witness table this morning. To my immediate right is Roland Mross, the Deputy Administrator; to my far right is Bob McManus, Associate Administrator for Grants Management; to my left is John Cline, Associate Administrator of Budget and Policy; and to my far left is Larry Schulman, Associate Administrator for Technical Assistance and Safety.

Since this is the first appearance for some of us before your committee, let me begin by saying that we welcome this opportunity to meet with you, and that we look forward to an effective and cordial working relationship with the committee in the weeks and months ahead. Nothing less will do either, because together we face an important and challenging task, structuring and financing an appropriate program of Federal assistance for local mass transit agencies.

Mass transportation plays an important role in the economic, social, and environmental health of our urban, suburban, and rural areas. It has been a force in retaining the viability of many downtown areas and in serving as a countermeasure to suburban sprawl. It can be the sole means for disadvantaged people having any kind of mobility at all.

As our expanding economy continues to create new industries and new jobs and new opportunities away from traditional downtown districts, it is often mass transit that helps ensure that inner-city residents do not become a permanent underclass totally denied access to this prosperity.

Mass transit helps in our effort to create a more wholesome environment and reduce congestion. And it has been around systems of mass transit and especially rail transit that many of our urban areas have developed and grown.

Mr. Chairman, it has sometimes been fashionable to criticize and belittle urban mass transportation, to downgrade its accomplishments, to poke fun at its practitioners, and to measure it by harsh and impossible standards. I do not wish to impose on your time today by responding to those charges. I would like, however, to lay out in the clearest of terms the goals and policies of the Bush administration with respect to urban mass transportation.

We do not see mass transportation as an annoying claimant for scarce Federal resources. We see it as part of the solution to the Nation's transportation problems. We do not isolate mass transportation. We see it within a whole seamless cloth that now constitutes our new national transportation policy.

That is the context, then, in which I respectfully ask the committee to review, assess, and evaluate the budget proposal that is now pending before you. I ask you to see it in positive terms as a commitment by the Government in Washington to continue a Federal-local compact whose 25th anniversary we all celebrated this past summer, and among whose early and enthusiastic supporters were distinguished members of the congressional delegation from your own State.

I also ask you to view this budget proposal as a transition to the newly reauthorized program of Federal mass transit assistance that we will jointly have to put in place before fiscal year 1992, a transition that will continue the proud traditions of American mass transit.

I would also like to talk briefly about the aspirations of the UMTA Administrator who is appearing before you today for the very first time. What are my principal goals? I have two of them.

One is to work with the Congress on the 1991 budget and then secure the reauthorization of the Federal Mass Transit Program. The second is to mold UMTA into the epitome of a Federal agency, one that is clear in its mission to assist public transportation, consistent in its dealings with its grantees, and conscientious in its concern for safeguarding the taxpayers' dollars.

What are some of the themes I would be stressing? I hope to place new and fresh emphasis on the notion of creative financing for mass transit. I firmly believe that we are all ignoring an important responsibility, if we do not take every possible step to make sure that whatever transit assistance funds are available from Federal tax sources be used to leverage as many additional dollars as possible from the private sector and from State and local government.

And what do I hope would be my legacy? When I walk out the door, if it can be said that the Federal Mass Transit Assistance Program is a little bit more stable and a little more efficient than when I walked in, and if it can also be said that at UMTA, in the Federal Department of Transportation, and all across the country the role of mass transit is viewed in more positive and more constructive terms, then I will feel very good about my stay in Washington.

Mr. Chairman, and members of the committee, urban mass transportation is an unheralded and little-noted success story in the history of urban America. An industry whose annual patronage peaked in the year 1926 and then continued to fall year after year, with the sole exception of extraordinary conditions created by the Second World War, saw this decline arrested in 1973.

This same industry has reversed its decline and has now achieved a state of stability and stands ready to play a new and expanded role as we look forward to the challenges we will face in a new century.

The Federal Mass Transit Assistance Program over which we, Mr. Chairman, together exercise responsibility in accordance with the constitutional principles of separation, will play an important role in the future of this industry and in the future of urban America.

We all have every reason to feel proud of what has been accomplished thus far and just as confident over what is to come.

PREPARED STATEMENT

Mr. Chairman, that concludes my opening statement. And I will provide an accurate, complete copy for the record. I now am at your disposal to answer any questions. Thank you very much.

[The statement follows:]

STATEMENT OF BRIAN W. CLYMER

Mr. Chairman and members of the committee. My name is Brian W. Clymer and I am the Administrator of the Urban Mass Transportation Administration.

It's my privilege to appear before you this morning to present and discuss the President's proposed fiscal year 1991 budget for programs of Federal assistance in the area of urban mass transportation.

Before continuing, though, I would like to introduce the colleagues who are joining me at the witness table this morning.

Since this is the first appearance for any of us before your committee, Senator, let me begin by saying that we welcome this opportunity to meet with you and that we look forward to an effective and cordial working relationship with the committee in the weeks and months ahead.

Nothing less will do, either. Because together we face an important and a challenging task; structuring and financing an appropriate program of Federal assistance for local mass transit agencies.

Mass transportation plays an important role in the economic, social, and environmental health of our urban, suburban, and rural areas.

It has been a force in retaining the viability of many downtown areas and serving as a counter-measure to suburban sprawl; it can be the sole means for disadvantaged people to retain any kind of mobility at all; as our expanding economy continues to create new industries and new jobs and new opportunities away from traditional downtown districts, it is often mass transit that helps ensure that inner city residents do not become a permanent underclass, totally denied access to this prosperity; mass transit helps in our effort to create a more wholesome environment and reduce congestion; and, it has been around systems of mass transit, and especially rail transit, that many of our urban areas have developed and grown.

Mr. Chairman, it has sometimes been fashionable to criticize and belittle urban mass transportation . . . to downgrade its accomplishments, to poke fun at its practitioners, and to measure it by harsh and impossible standards.

I do not wish to impose on the committee's time by responding to such charges here today.

I would like, however, to lay out in the clearest of terms the goals and the policies of the Bush administration with respect to urban mass transportation: We do not see mass transportation as an annoying claimant for scarce Federal resources . . . we see it as part of the solution to the Nation's transportation problems; we do not isolate mass transportation . . . we see it within a whole and seamless cloth that now constitutes our new national transportation policy.

That is the context, then, in which I respectfully ask the committee to review, assess, and evaluate the budget proposal that is now pending before you.

I ask you to see it in positive terms . . . as a commitment by the Government in Washington to continue a Federal-local compact whose twenty-fifth anniversary we all celebrated this past summer, and among whose early and enthusiastic supporters were distinguished members of the congressional delegation from your own State, Mr. Chairman.

I also ask you to view this budget proposal as a transition to the newly reauthorized program of Federal mass transit assistance that we will jointly have to put in place before fiscal year 1992, a transition that will continue the proud traditions of American mass transit.

As to details of the proposed budget that is before you, it includes a total of $2.3 billion in combined general revenue and trust fund programs.

With the exception of Federal operating assistance to larger urbanized areas, and interstate transfer grants for all grantees, the budget continues all programs at this year's spending level and in conformity with the authorization statute.

Let me first address the two exceptions.

For interstate transfer grants, we are proposing . . . in the new spirit of intermodalism that is at the heart of the national transportation policy . . . that this program category be funded directly from the highway trust fund through the companion FHWA program.

The Interstate Transfer Grant Program is winding down. But it would be very remiss of me if I did not cite this effort for being an important pioneer in a style of Federal-local relationship that, I believe, will come to characterize assistance programs in years to come: Federal programs distributing transportation resources by formula, coupled with an ability for local officials to use these resources across modal lines to meet their own most urgent transportation priorities.

Mr. Chairman, we all acknowledge the vision and the imagination of former President Dwight Eisenhower when we talk about the interstate highway system.

I trust you will allow me to add that as this magnificent system nears completion, it has also given us, through the Interstate Transfer Grant Program, a new model for the conduct of Federal-local relationships in the years to come.

The second structural change we are proposing this year involves Federal operating subsidies for the larger urbanized areas.

We recognize the importance of these funds for smaller cities and towns, and we are thus proposing no change in the program for them.

But in the larger urbanized areas, where Federal operating assistance is something like 4 percent of total operating costs . . . and getting smaller each year . . . we see a perfectly valid opportunity for proposing a reduction in the Federal budget that local transit managers will be able to accommodate with minimum difficulty, allowing Federal assistance in these cities to focus on the task of capital investment . . . and reinvestment.

These, then, are the changes.

The meat of this proposed budget, however, is not in what it plans to alter, but in what it maintains.

All of the following programs will be funded at essentially the same level as this year: Capital assistance under sections 3 and 9; research and technical assistance; funding for rural transportation; planning; and, the section 16(b)(2) program that provides capital assistance for agencies serving elderly and disabled passengers.

Although I will not go into details about all these programs in my opening statement, I would like to draw attention to certain aspects of the Section 3 Discretionary Grant Program.

The modernization of older rail transit systems in cities where these facilities serve a vital function will continue to be an important element of section 3. This discretionary program, coupled with additional dollars available through section 9, will permit rail modernization programs now underway in these cities to continue.

Section 3 funds in the bus and bus-related category will be available for any urgent bus capital purposes.

But a special priority will be the development and implementation of new alternative fuel technologies, as well as making transit buses and terminals accessible to individuals with disabilities.

Mr. Chairman, permit me to say a very special word about transit accessibility for disabled persons. The administration strongly supports the Americans With Disabilities Act which the Senate passed last year.

And while we hope this statute itself will soon become the operational instrument for ensuring that justice is no longer an empty promise for disabled Americans, we have also recently issued a notice of proposed rule-making for mass transit accessibility under section 504 of the Rehabilitation Act of 1973.

This rule-making, Mr. Chairman, will correct certain technical defects that came to light during recent litigation, and will also serve to emphasize again the administration's commitment to goals which we all share.

Finally, I ask the committee's leave to stray a little from the business of presenting and explaining the 1991 budget, and talk briefly about the aspirations of the UMTA Administrator who is appearing before you today for the very first time.

What are my principal goals? I have two of them.

One is to work with the Congress on the 1991 budget, and in securing the reauthorization of the Federal Mass Transit Program.

And the second is to mold UMTA into the epitome of a Federal agency . . . one that is clear in its mission to assist public transportation, consistent in its dealings with its grantees, and conscientious in its concern for safeguarding the taxpayers' money.

What are some of the themes I will be stressing during my tenure?

I hope to place new and fresh emphasis on the notion of creative financing for mass transit, because I firmly believe that we all are ignoring an important responsibility if we do not take every possible step to make sure whatever transit assistance funds are available from Federal tax sources are used to leverage as many additional dollars as possible from the private sector and from State and local government.

What do I hope is the legacy I will leave at UMTA?

When I walk out the door, if it can be said that the Federal Mass Transit Assistance Program is a little more stable and a little more efficient than when I walked in, and if it can also be said that at UMTA, in the Federal Department of Transportation, and all across the country, the role of mass transit is viewed in more positive and more constructive terms, then I will feel very good indeed about my stay in Washington.

Mr. Chairman and members of the committee, urban mass transportation is an unheralded and little-noted success story in the history of urban America.

An industry whose annual patronage peaked in the year 1926, and then continued to fall year after year with the sole exception of the extraordinary conditions created by the Second World War, saw this decline arrested in 1973.

This same industry has reversed its decline and has now achieved a state of stability and stands ready to play a new and expanded role as we look forward to the challenges we will face in a new century.

The Federal Mass Transit Assistance Program, over which we, Mr. Chairman, together exercise responsibility in accordance with constitutional principles of separation, will play an important role in the future of this industry, and in the future of urban America.

We all have every reason to feel proud of what has been accomplished thus far . . . and just as confident over what is to come.

Mr. Chairman, that concludes my opening statement. I will provide an accurate copy for the record. My colleagues and I are now at your disposal for further questions and discussion.

OUTREACH EFFORT

Senator LAUTENBERG. Thank you.

Senator Domenici, welcome.

Senator DOMENICI. Hello, Mr. Chairman, it is good to be here.

Senator LAUTENBERG. Mr. Clymer has just made his opening statement in which he talked about mass transit for the major cities of New Mexico and the various rail systems that you have asked for the cities of Taos and some of the others.

Senator DOMENICI. Well, those are good for you. That is very helpful.

Senator LAUTENBERG. Yes; I like those areas.

Before we get into the questions?

Senator DOMENICI. I have no opening remarks.

Senator LAUTENBERG. Mr. Clymer, I was pleased to note throughout your statement how optimistic and how positive you were about the role that mass transit plays. And frankly, I find that optimistic attitude in contrast to the budget that you are supporting.

So we will talk about some of those differences that I observe. And I would like to ask you this, the Secretary spent a lot of time in an outreach program and talked to lots of people. And the Secretary is someone whom I respect and personally like very much—even on occasion when we disagree, I find him to be a man of intelligence and integrity. But again, there are those occasions—too many recently—upon which we disagree. And I have got to ask you to evaluate that outreach effort. It was designed to develop a national transportation policy. How did that effort, and the information it garnered influence this reauthorization legislation? Do you think that he got lots of people volunteering to pick up a larger share in the communities and the States?

Mr. CLYMER. I should make the point that I spent a lot of time over the last summer conducting our research and listening to what people and professionals had to say all across the country, which resulted in a number of initiatives and ideas. Some of these we could only begin to implement in this year's budget, and many of them we are looking forward to addressing in the reauthorization process.

One which you alluded to earlier had to do with the use of the trust funds. One of the things that came across throughout this outreach was the idea of flexibility in the use of the transportation revenues. This is an idea that we are pursuing and hope to be discussing with you in terms of the reauthorization.

The idea of intermodalism is one that came across very strongly during this outreach effort. Certainly one of the worst problems is traffic congestion in urban areas; it will require increased resources and more infrastructure building. These were points that we heard during this outreach effort.

The idea of strengthening the regional transportation decisionmaking was also a point that was emphasized during our outreach. Another point was the idea that locals would not only have more flexibility, but would play a bigger role in transportation and land use decisionmaking. That the Federal funding should be a lower share, but at the same time should be more stable and flexible. That good decisionmaking at the local level, taking into consideration land use planning, highway and transit use, could be made on an intermodal basis.

We should not only give them flexibility. In terms of reauthorization, we would have to seek provisions to allow the local planning process, if it is to be a genuine one, to be free to use either highway or transit funds for either a highway or transit project as the local decisionmakers decide.

REAUTHORIZATION LEGISLATION TIMETABLE

Senator LAUTENBERG. Well, let us get more specific. When is your legislation going to be sent to Congress? Do you know?

Mr. CLYMER. For reauthorization?

Senator LAUTENBERG. Yes.

Mr. CLYMER. Well, we are still working on that timetable right now. We are just starting to put together some of the practical theory that we have derived. Hopefully, we will have a timetable shortly.

PROPER BALANCE FOR FUNDING

Senator LAUTENBERG. Because we are obviously going to have to get on with it. And we will be talking about lots of things that reflect a policy which I think is actually in place for us right now.

The winds that I feel bode ill for transportation, for mass transit programs in particular. So we are anxious to see it and be able to discuss it and see what we can come up with.

Secretary Skinner's policies call for more local financing in all modes of transportation. Over the last 9 years, State and local government financing has increased by nearly 200 percent. And yet the administration calls for even more reduction in transit funding.

What do you think is the proper balance for funding mass transit?

Mr. CLYMER. Well, the area in which we are asking for the cuts are in operating assistance for the largest cities, those with population in excess of 1 million.

Currently the portion of their operating budgets that comes from operating assistance provided by the Federal Government is only in the area of 5.2 percent, so it is not a significant part of their operating budgets.

In the period from 1981 to 1988, the State and local operating assistance increased from $2.7 to $7.1 billion—an increase of nearly $4.4 billion. The large areas have clearly shown that through local support and through fare revenue increases and also, by the way, through operating efficiencies in their own budgets—budgets that were consistently running above inflation throughout the period of cuts and operating expenses—these areas have brought those budgets much more under control and have been able to cope with the decrease in operating assistance.

And we clearly differentiate between the large operating properties and the small ones. We feel that it is the Federal Government's role to maintain infrastructure, capital expenditures and to apply our support in that area and not in the area of operating expenses, especially to large cities, given that it is such a small part of their budget.

And they are not responsible to us, the Federal Government, for that budget. They are responsive locally, and therefore, we feel that is where the funding should originate.

Senator LAUTENBERG. You talk about the size of the increases over a specific period of time. There is also enormous population growth. There are also, as a result of the crowding, congestion and air quality problems.

There is also a greater need for investments in mass transit systems. And though you talk about the small percentages lost, these cities—and you came from one, you know what SEPTA's problems were. And if that system is used as an example, Mr. Clymer, you will know what a strain it is on the user, on the passenger to pay these constantly increasing fares, and on the communities that are beset by enormous budget problems.

And here we have a trust fund that has a surplus not yet committed, and we are trying to further decrease the amount of Federal assistance.

Now it is ironic that we talk about cities over 1 million being exempt. How many of those do you have, Senator Domenici? Several in New Mexico?

Senator DOMENICI. Well, by the next century we may have one.

Senator LAUTENBERG. Well, you will feel bad then at that time. [Laughter.]

OPERATING ASSISTANCE FOR CITIES OVER 1 MILLION

How much would these cities lose in absolute dollars in terms of their operating assistance? The cities over 1 million. Have you got a figure for that?

Mr. CLYMER. Approximately $508 million overall. And to use the example, Mr. Chairman, of SEPTA in Philadelphia, I chaired the budget committee of that authority for many years on the board.

We came to the realization fully 7 or 8 years ago that operating assistance was going to be phased out by the Federal Government. And through that phaseout period, we realized that it was something we had to cope with. The percentage of dollars to Philadelphia's overall budget—which is I believe about 5.8 percent—was not the overriding concern.

Our questions and our concern that we had for Philadelphia, in fact, still remain in Philadelphia, were on the capital side. And how they were able to deal with that capital budget, and where the dollars for capital would ultimately be coming from.

Senator LAUTENBERG. Well, under current law, transit authorities are capped on the amount of Federal funds they can use for operating assistance. Do they use the maximum amounts allowed? Or are some of these funds used for capital purposes?

Mr. CLYMER. Some of the funds are used for capital purposes. It is actually a relatively small percentage of the cities of greater than 1 million that do not hit their caps in terms of the utilization of the operating expenses.

The cities under 1 million in population, the smaller cities, are the ones that generally make full utilization of their caps in operating assistance. They normally run into problems in the capital area and not in the operating assistance area.

Senator **Lautenberg**. What cities do not use the maximum amounts?

Mr. **Clymer**. The only city that I could name right now that does not use it of the cities over 1 million is Dallas.

Senator **Lautenberg**. So, based on the knowledge you have, it is city, not cities. And I think we run into a dangerous precedent when we say cities and cast that as a general net, when, in fact, it is a single place and it is a very unusual circumstance in Dallas, as you very well know.

So, if the other cities, in fact, do use their maximum allowable, that suggests that there is a fairly significant dependence or use of the funds that they do get.

Mr. **Clymer**. Well, I think it is more a matter of their budgets are so large. And given that the operating assistance is so small, the ability to subsume it within those budgets is—it is just overwhelming. They can just bring it right into the budget.

It can actually get absorbed almost in any of their line items on their budgets, because of the relative small size of it.

Senator **Lautenberg**. You and I come from similar backgrounds.

Mr. **Clymer**. Absolutely.

ABSORPTION OF OPERATING ASSISTANCE

Senator **Lautenberg**. How many cities are there that you know that have balanced budgets, or that have the ability to subsume—to use your word—these deficits that they get, or the transit assistance moneys that they get?

I mean, it sure is not Philadelphia, and it sure is not New York City, where our distinguished ranking member comes from, and it sure is not lots of other cities. I do not know of any, and very frankly, I am trying to think maybe some of the growth cities in the West or South have them. But I do not know of any.

Mr. **Clymer**. No; I think we can agree, Mr. Chairman, that there are not many transit providers in this country that operate in a significant, if any, profit mode.

I think the point is—given the relative size of the operating assistance—that they would certainly gladly absorb any amount that we would provide. The question is whether or not we are promoting unnecessarily low fares or lack of commitment by State and local governments by providing this operating assistance.

SECTION 9 FORMULA OBLIGATIONS

Senator **Lautenberg**. How quickly are section 9 formula funds obligated?

Mr. **Clymer**. Section 9 funds are now put out on a quarterly basis. This year we had probably the largest distribution we have ever had in the first two quarters. We obligated somewhat over $1 billion.

Senator **Lautenberg**. Is there a difference between operating assistance versus capital grants in terms of percentages there? Obligations that we are putting out?

Mr. **McManus**. The operating assistance is applied for first, typically.

Senator **Lautenberg**. I am going to stop my round now. And my colleague from New York is going to defer apparently to our friend from New Mexico.

Senator Domenici.

CLEAN AIR

Senator **Domenici**. Thank you very much, Mr. Chairman, and Senator D'Amato.

I have two parochial issues I would raise, but I would first like to ask you a general question about urban mass transit. I think everyone in the United States knows that we have a very, very serious problem with the growing use of individual transportation. I am speaking, of course, of the automobile, which we so much love and cherish.

There are many who are very concerned about the impacts of the automobile on the environment. We are struggling mightily with the new Clean Air Act to see if we can do something about alternative sources of energy and the like.

I wonder, since many people speak of mass transit as one of the systems that would alleviate—and to borrow your word—subsume part of that individual mobility crave, how we measure, how does somebody in your position measure, whether we are succeeding with mass transit?

And if we are not succeeding, has your agency attempted to analyze just what the basic reasons for its failure are, so we do not keep building policies around the thinking of the past 25 years? Perhaps the issues are different in terms of why it is not working, if it is not, as well as we would hope.

My other question is, whether there has been any analysis of the operating costs for mass transit that are—even if they are relative—that are meaningful?

It appears to some that the operational cost of mass transit in the United States and our cities is exorbitantly high. We do not have another mass transit system to compare it with, so I use the word relatively speaking.

Could you take a minute on both of those questions? I do not expect a long answer on either, but I think they are interesting issues.

Mr. **Clymer**. In terms of the clean air and how we measure that, I think that part of the language of the act has probably zeroed in on that.

In terms of the concept of vehicle miles traveled and ultimately looking at the equation of——

Senator **Domenici**. Well, let me do this another way. I do not know that I asked that first question in such a way that you can address it for general discussion.

It seems to me that we have been devoting a lot of attention to mass transit; and yet, as you look out there intermodally you find that automobile use is growing dramatically, and mass transit does not seem to be making a significant dent on that. I would call that, at the minimum, something that we ought to be very concerned about. Why is this the case?

I guess my question is, Are we succeeding with mass transit in the United States? If we are, tell me we are. If we are not, do you have any ideas as to why we are not?

Mr. **Clymer**. Let me make two points to put it in perspective.

One, if you look at the mass transit trips in this country, mass transit provides somewhere in the neighborhood of 9 percent of the daily work trips in metro areas. We have often used the statistic in terms of managing the use of the single occupant vehicle. The average commuter vehicle in the United States carries 1.15 people. If only one out of every six people now driving alone to go to/from work in metro areas would carpool with just one other individual, the effect on auto travel would be the same as doubling the number of people using transit to commute.

That is not to devalue what mass transit provides. Mass transit's place is in our urban areas predominantly when we think of clean air, where in cities like New York it provides 95 percent of the commuter trips to Manhattan, or in cities like Philadelphia where it provides 65 percent of the commuter trips to the center city. So mass transit certainly has its place.

In terms of clean air and congestion, it is certainly one of a combination of factors, one of which is to manage mobility, the second of which is to apply mass transit as it is applicable. It certainly has a tremendous amount of applicability in our urban areas.

OPERATING COSTS

Senator **Domenici**. My second question is whether there is an analysis of the operational cost of mass transit, and are the operating costs in line, or are they excessive versus some other kind of service in the United States?

Mr. **Clymer**. I believe that mass transit operating costs in the United States are certainly coming into line. One of the effects of our program in reducing operating costs, speaking now predominantly of the over 1 million population areas, is that since we have been holding their feet to the fire and making them more locally responsible for operating assistance, there has, in fact, been a great deal more attention paid to the operating budgets.

Now, if they are responsible locally, they tend to look a lot more closely at those budgets. There is a much different relationship in the smaller rural areas in terms of their operating budgets. Those areas have typically operated a lot closer to the vest, if you will, and their operating costs have not been out of line.

PRIVATE SECTOR ENTERPRISE

Senator **Domenici**. I have two local questions, and I would not expect you to know anything about them. They are mighty small.

There is a grant for an Albuquerque-Santa Fe trolley system, which is privately owned in my State. That grant has not yet been used because this company, a privately owned company, is still negotiating with UMTA. They are having a great deal of difficulty with the rules because it appears that if you are a private, profit-making firm, there are a lot of impediments in the rules of UMTA with reference to the utilization of a grant.

I know we do not have huge private sector involvement in UMTA-type grants, but I wonder if you would take a look at whether or not the burdens for private sector operations are not excessive, and in some instances totally counterproductive, to how a privately run operation does business.

I think they are. I would very much appreciate it if you would take a look at that, because I do not think such collaborations are going to work on the private end with the rules we have now.

Mr. CLYMER. We certainly will, Senator. I am familiar with that grant. We had considerable activity over it last summer, if I remember correctly.

Our program has been predominantly directed toward dealing with public agencies, and it has been difficult for us to deal with private sector enterprises, especially when we are bringing them into that public arena and trying to forge those partnerships.

You have touched on one of the principal tenets of the national transportation policy, and that is for us to try to get government out of the way of both public and private operators and allow them to forge those partnerships that will ultimately benefit public mobility. So we will be taking a very hard look at that with an eye to trying to make that area somewhat more conducive to exactly the kind of thing you are proposing.

Senator DOMENICI. I will insert the other two questions in the record, and I thank you very much, Mr. Chairman.

Senator LAUTENBERG. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to welcome Brian Clymer here today. It is his first appearance here, as you know. Obviously this is not going to be an easy year for us, given the cuts that have been recommended. We will go into that at another time.

PREPARED STATEMENT

Mr. Clymer, at the risk of being somewhat parochial, I am going to spend a little time doing exactly that. Before I begin my questions, however, I ask that my statement be inserted in the record as if read.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I am pleased to join you in welcoming UMTA Administrator Brian Clymer and Washington Metro General Manager Carmen Turner to today's hearing. This is Administrator Clymer's first appearance before us. He brings with him about 9 years of practical experience on the Board of Directors of Philadelphia's mass transit system. I believe he will make significant contributions to UMTA as we head into the important reauthorization process next year.

The President's FY 1991 budget request for UMTA recognizes the fact that the federal transit program will require reauthorization next year and does not propose major structural changes in the program. The proposed $2.3 billion funding level cuts $550 million in operating aid to cities with populations over one million. It allocates $1.14 billion for discretionary grants (the same as FY 1990), and $1.077 billion for formula grants (a 34% cut from FY 1990).

The Administration budget proposes to allocate $398 million in discretionary new start funds for four projects: (Denver, Los Angeles, St. Louis, and Miami). The rest of the gas tax penny funds would be allocated: $394 million for rail modernization projects; $193 million for bus capital needs (mostly for alternative fuels and transit accessibility); and $35 million for elderly and handicapped grants, $45 million for planning, $5 million for University Transportation Centers, and $70 million for Section 9B formula capital grants.

New York State would lose about $152 million under this proposal, including a cut of $144 million in New York City. Buffalo and New York City would face fare increases affecting more than 6 million daily passengers due to the loss of federal operating aid. I don't believe that we should approve such a large operating aid cut, and I plan to work with Chairman Lautenberg to oppose this plan.

The Washington Metro is proposed to receive $38 million from general funds. This is $47 million below current levels. The authority has requested $200 million for FY 1991.

Mr. Chairman, I look forward to hearing the details of UMTA and Washington Metro's budgets this morning.

Thank you, Mr. Chairman.

NEW YORK METROPOLITAN TRANSPORTATION AUTHORITY [MTA]

Senator D'AMATO. I have received complaints from commuters and businesspeople from an area in New York called Long Island.

Senator LAUTENBERG. That is a suburb of that.

Senator D'AMATO. That is the magnificent suburb that goes into the Atlantic Ocean and all the people from Manhattan, the fancy people, go there during the summer. They just found the island, but it is way out east, you know.

Now they do not need the Long Island Railroad, but the 190,000 plus commuters per day do need it. The MTA has been absolutely, as it relates to its planning, inadequate, shockingly inept, and we can use all the other adjectives to describe them. They can build tunnels to nowhere for $800 million, $1 billion, but when it comes to managing a project they planned service cutbacks for this summer in connection with a $100 million federally funded project to install reverse signals at the Harold Interlock in Woodside, in Queens.

Now this work will close Forest Hills and Kew Garden Stations and reduce service to the Woodside Station during June to September. The MTA will reduce trains by 10 percent, assuring that trains will be 6 to 9 minutes late in the heat of the summer. That is an additional 6 to 9 minutes. We always have the summer problems in any event.

This project was supposed to be completed in 1980. I am not laying this at your door, obviously. You and I were not here. It was never begun, though.

Now this is typical management. Typical. We built a tunnel to nowhere for $800 million, $1 billion. We could have provided all the people who use that with a limousine to go back and forth, 3,000 people, and saved the Government money. This is incredible, and that is why I have put in that legislation asking you people to study and to manage this.

I might suggest to my friend and colleague, Senator Domenici, that the subway system is the most incredible, dynamic transportation system, speaking particularly about New York, ever built. It can whiz you from downtown to uptown in a matter of minutes. If you attempt to do it by way of the automobile, not only do you have the pollution that Mr. Clymer spoke about, but it can take you 1 hour. It is incredible.

So why is it that we have declining ridership or, rather, stagnant ridership? I will tell you why. It is dirty. More than that, it is scary and unsafe. It is not safe. Now if we are going to invest all this money—and I fought for it—it just seems to me that we have a right to see to it that those managing it see that it is safe, that they do not have fires and breakdowns, that they do not have the kinds of situations that have developed and the horror stories where brakemen are killed, people are in unauthorized places that make it unsafe, and also the criminal element.

You might say, well, we do not have a correlation or relationship, that that is a local responsibility. I think maybe standards should be set. We should say, look, if you want Federal funds, you have to assure that there is a certain safety factor. Maybe we need some recommendations to that effect.

I said it a long time ago. I told my good friend, the former Mayor, that I was afraid to ride on those subways, and he laughed. I said to him, not only that but I get provided with security in most cases, many times, and my security officer is even afraid. He got very upset about that. He is a big guy. He said, Alfonse, everybody is laughing at me. But the average citizen does not have a security guard with him.

People take the subway during the day when there are lots of people. They feel safe when there are lots of people. It costs firms tens of millions of dollars for firms to send their cars and pick up their secretaries and people who stay later on during the day because you cannot send somebody home. My executive assistant has a young daughter who lives and works in New York City. She comes from South Carolina, and she is absolutely petrified. She finds out that her daughter, who goes to one of the local colleges, comes home at night after certain classes at 9 p.m. and uses the mass transit system. She says look, I do not want you to do that. She sent her a check yesterday so that she could take a cab to get home because she is fearful.

So to my good friend, Senator Pete, I suggest to you that it is not because that system does not provide the most incredible transportation, moving it up and down, but it is because it is a scary place. People are frightened, and they do not use it unless they have to or at least where there are large numbers of other people. So during the rush hour, yes, they feel relatively safe because there are large numbers of people, but, boy, in the offpeak hours people literally take their lives in their hands, or at least they feel that way. That is one of the great problems.

What do we do? We understand that is happening. What should the Federal role be in the responsibility? We have geared so much in the way of safety and whatnot, and we are going to have different things installed and done in equipment and telephones and whatnot, and it has never come to pass.

In any event, I would be deeply appreciative, Brian, if you would look into this situation, because, I tell you, I find that the MTA is unresponsive. We have written to them. Would you ask the MTA to look at its work schedule to see if you could get them to minimize this inconvenience caused by this project in the range of

250,000 daily commuters? The way I see it, these commuters will simply be forced back into their cars on the overcrowded expressways. It certainly does not make much sense to me, and I would be appreciative if you would do that.

NEW YORK TRANSIT

Mr. CLYMER. Senator, we would be happy to.

I think in your question you have really hit on one of the main problems that transit faces in terms of a question that was asked here earlier as to why transit has not worked.

Transit has to be safe above everything else, and clean and efficient. When we can provide that and provide an infrastructure that provides that, people have shown that they will use public transportation which will ultimately have the benefits that we have been talking about in terms of clean air and alleviating congestion.

Certainly in the case of New York, we have, as you have expressed earlier in some of your concerns, been working with the management up there in terms of prioritizing what they do so that the dollars, especially the Federal dollars, are spent effectively; and that old projects that have been delayed for many years are now being addressed. We certainly feel that we are at least on our way toward tackling what is a massive problem.

You understand, of course, in New York, on a per-ride basis, is 30 percent of all mass transit in the United States. It is certainly a massive problem, and there are many coordination problems between not only their own agencies but also the city and the State. We are trying to hold their feet to the fire to see that these problems are addressed and certainly that the visible ones are addressed promptly.

NEW YORK 63D STREET TUNNEL

Senator D'AMATO. I would like you to take a look at that subway to nowhere, the 63d Street Tunnel, a $1 billion tunnel to nowhere. It is now open, but all it does is simply strands Queens Boulevard transit riders at 21st Street and Queens without any efficient and effective means to reach other subway lines. The question is does it pay to bring in another linkage; is there one there? Would you take a look at that and give us a report as to what is taking place?

Be cognizant that sometimes they will open up another huge hole. You have to be careful. Lord knows how much they will spend to link it to another place to nowhere. So I would be appreciative. I do not know what they are up to.

[The information follows:]

In the early eighty's, the MTA explored a variety of options for improving transit in Queens, including upgrading the Montauk Branch of the LIRR to full NYCTA rapid transit standards and connecting existing services on Queens Boulevard with the new 63rd Street Tunnel. This study demonstrated that the most cost-effective option could be connecting existing Queens Boulevard service to the recently opened 63rd Street Tunnel. This connection would provide another link to Manhattan for Queens residents and would relieve the overcrowding on the express tracks (E and F Lines) on the Queens Boulevard Service. The cost of the "Local/Express Connection" would be about $485 million (1988$), including about $115 million for additional subway cars. A Supplemental Draft Environmental Impact Statement is now undergoing final editing and should be circulating to the public early this summer.

Preliminary calculations indicate that this proposed project will meet UMTA's cost-effectiveness threshold for "new start" projects.

PROJECT BREAK EVEN, PORTLAND, OR

Senator D'AMATO. One last thing. Senator Hatfield, the ranking member of the committee, has asked me to put this question to you. In fiscal year 1989 we appropriated $5.5 million and in fiscal year 1990 we appropriated $8 million for a demonstration project in Portland, OR, called Project Break Even. Now this proposed joint development project which would combine a regional shopping mall with a light rail station was initiated in response to a previous UMTA Administrator's comments favoring joint development transit projects.

Although these funds were earmarked in the Senate report, it is my understanding that they have not been obligated.

I will be nice. What are you going to do with this? You have the written question there, and you know what the ranking member wanted to ask. He is serious about this. The bottom line is when do you plan to obligate these funds?

It is much easier to do it the easy way rather than to get dragged to the altar the tough way.

Mr. CLYMER. I am quite aware of that, Senator. Thank you.

We have had a number——

Senator D'AMATO. You have no doubt it is going to be done, do you?

Mr. CLYMER. We have had a number of——

Senator D'AMATO. Brian, Brian, let me ask you this. [Laughter.] I mean, I do not understand it. There is a practicality.

Mr. CLYMER. This is just between the two of us?

Senator D'AMATO. Yes; nobody is listening.

There is a practicality to this whole business, is there not? You are talking about the ranking member. He has been around here for 24 or 25 years, you know.

Mr. CLYMER. We feel that ultimately the project will be done. We have had a number of meetings with the Senator. He has provided us more than amply with his valuable time to go over this thing. We have mutually agreed to look at the problem, to look at the project with an eye toward assessing both of our concerns and trying to assess how we can develop a good transit project out of it.

Without going into the details, we are paying attention to it.

Senator D'AMATO. You feel confident that this is going to move forward?

Mr. CLYMER. It will move forward in some fashion, yes. [Laughter.]

Senator D'AMATO. OK. We do not want to come back to this one, all right? You have no doubt we will come back to it if it is not——

Mr. CLYMER. I certainly understand that if we do not address it that it will be readdressed by the committee.

Senator D'AMATO. OK. So I will tell the chairman of your deep interest in seeing to it that this matter is resolved.

Mr. CLYMER. We have in fact sent a letter to Senator Hatfield indicating our resolve to deal with this project.

DRUG TESTING

Senator D'AMATO. I want to thank Chairman Lautenberg for being so indulgent and giving me the opportunity to address these matters which I brought to you.

I want to thank you, too. I also want to thank you for your visit to New York and for your pursuing the area as it relates to drug testing of those people who are in urban mass transit functions who particularly are charged with the responsibility of safety-sensitive positions. We will try to do all we can to get as much support for that legislation. I think you should have it. You should have that enabling legislation. It is important, and I want to wish you good luck.

Mr. CLYMER. Thank you very much, and we certainly appreciate your efforts in introducing that legislation. It is legislation which we feel is vital to transit riders all over the country. Right now they are certainly in a state of not knowing——

Senator D'AMATO. It makes no sense to test after the accident. If we can prevent the accident by people knowing that they may be tested, if they are using drugs there may be a substantial number who will cease and desist. If we can deal with some of the constitutional guarantees that people are concerned about such as right of privacy, et cetera, I think we can and your proposal sets it out in the right manner.

I am not suggesting to you that the unions have jumped up and down and applauded it, but by the same token they recognize that there is a necessity to see to it that there is a proper balance of protecting the interest of their workers, their union members and also the general public. I think you have achieved it in the proposal, so we will see if we can develop support.

Again, I thank the chairman for his graciousness and his latitude.

Senator LAUTENBERG. Senator D'Amato, as always it is a pleasure working with you. You have a way of separating the wheat from the chaff. It is known as the archetypical New Yorker way of putting aside the bushlip—is that what they are saying—and getting on with it. [Laughter.]

Senator D'AMATO. Thank you, Mr. Chairman. I will present your regards at the Defense Subcommittee. Do you have any interests over there?

Senator LAUTENBERG. A little bit, yes.

Senator D'AMATO. Shall I manifest any?

Senator LAUTENBERG. We would like to trade some of those expenses for more investments in mass transit so that we can get the system reliable, clean, safe, reasonably priced, and then we would see the kind of a switch to mass transit. People would love to take it.

Frankly, I try to use the PATH trains when I can because it is much more efficient to go over to New York than it is for me to drive my car. I used to be a commissioner of the Port Authority of New York in New Jersey. The Lincoln Tunnel, the Holland Tunnel, the George Washington Bridge, as massive as it is, is just backup, poor air quality, lost productivity, fuel cost, et cetera.

I am sorry Senator Domenici left. One of the things I was going to propose is that we write legislation prohibiting smoking in automobiles and see if we could drive people back to mass transit if they cannot smoke in their own cars. They are trying to get away from my nonsmoking legislation.

Thank you very much, Senator. It is always a pleasure.

Senator **D'AMATO**. Thank you, Mr. Chairman.

ALTERNATIVE FUELS/ACCESSIBLE TRANSIT

Senator **LAUTENBERG**. Mr. Clymer, in the budget justification you propose that "much" of the $193 million in section 3 bus funding be used to pay for the incremental costs associated with alternative fuels initiative [AFI] and transit accessibility.

What percentage is much? What is the dollar value?

Mr. **CLYMER**. Technically, Mr. Chairman, all of the $193 million in section 3 is usable for transit authorities to provide access to their facilities and vehicles for the disabled and would also be available for the alternative fuels initiative.

We had planned approximately $75 million for the alternative fuels initiative with specific emphasis given to changes in transit infrastructure such as vehicle fueling, maintenance and storage facilities necessary to accommodate the alternative fuel vehicles.

Right now, anticipating the Clean Air Act and also with regard to the proposed rulemaking that the Department issued concerning access for the handicapped, it is difficult to assess the demand. We certainly already stated demand with regard to alternative fueled vehicles, but right now are assessing the demand for making adjustments for the disabled. There may be some runup with regard to handicapped access in terms of construction design so that we feel it is something that will be increasing over a period of years as these design criteria are known.

We have taken the formula allocation of 10 percent in the other category and applied virtually all of it into the bus category in order to accommodate both of these situations.

Senator **LAUTENBERG**. What do you think $193 million is going to buy us when we talk about retrofits, lifts, and engines for burning alternative fuels? Are we going to have a lot left to do after we spend $193 million, I mean realistically?

You say $75 million of that may be available, if I understood you correctly, for some of the air quality programs. What are we going to be able to buy with the remainder? Is that going to make a dent in the programs that we have responsibility for installing?

Mr. **CLYMER**. Certainly, it is a good start. Again, one of the major concerns we have is facilities which need to be altered for alternative fuels. Right now, most of what we have going is demonstration programs in terms of small amounts of alternatively fueled vehicles or, as you indicated, retrofits. These are incremental dollars, and what we look forward to funding are the incremental portions of it, which are relatively small amounts.

In 1989, we approved 22 AFI projects totaling approximately $22 million, and in 1990 we have approximately 17 projects reserved, totaling approximately $18 million.

So in terms of adding the incremental costs—and I emphasize incremental—we cannot consider total fleet replacements, whether they be with handicapped access or alternatively fueled engines, as eligible under this initiative, simply the incremental part of that.

We feel, whereas the demand will more than likely exceed available funds, it should give us the ability to manage both these areas of concern.

Senator LAUTENBERG. Does UMTA have an estimate of what the costs of installing these accessible facilities are, the costs to meet the air quality requirements? What do you think the whole thing might cost?

Mr. CLYMER. We do not currently have an accurate assessment of what the total costs are. We are currently working on that assessment. The number of new federally assisted buses purchased per year is approximately 1,700, so it will cost an additional $10.2 million to make these buses accessible.

We are replacing rural vehicles at a rate of 700 per year. To lift equip all of these could cost an additional $4 to $5 million.

In terms of overall costs, it is something we are still developing as the technology is evolving.

MASS TRANSIT FUND

Senator LAUTENBERG. What is the cash balance in the mass transit fund?

Mr. CLYMER. I am speaking from page 74 of a budget proposal which you have in front of you. Looking at the highway trust fund and the estimate for the end of 1990, there is an unexpended balance of $6.9 billion.

Senator LAUTENBERG. At the end of 1990?

What are the outstanding obligations against these funds? How much of the remainder is truly unencumbered? I guess that is where we want to go.

Mr. CLYMER. The unfunded part of the trust fund, the unencumbered portion, we are estimating by the end of fiscal year 1990 is $2.97 billion.

Senator LAUTENBERG. $3 billion?

Mr. CLYMER. That is correct, almost $3 billion.

Senator LAUTENBERG. What does the penny actually generate now, the penny share of the gas tax?

Mr. CLYMER. We are estimating that for fiscal year 1990 the penny will generate approximately $1.3 billion and $1.35 billion in 1991. That is without interest, Mr. Chairman.

Senator LAUTENBERG. Secretary Skinner recently introduced aviation reauthorization that would draw down the aviation trust fund balances. Are there similar plans for the transit trust fund?

Mr. CLYMER. We are approaching our reauthorization with the idea of making a proposal to spend down the transit trust fund.

Senator LAUTENBERG. On reauthorization, is there any indication of how we are going to be funding transit needs in the future as recommended by the administration or the Department of Transportation?

What is the likelihood of a recommendation by DOT and by UMTA for funding in the future mass transit programs?

Mr. **Clymer**. I would certainly hope that the likelihood of spending down the trust fund is a good one. It is part of the national transportation policy——

Senator **Lautenberg**. How about the revenue replenishment? What do you think they might be looking for?

Mr. **Clymer**. In terms of?

Senator **Lautenberg**. Revenue replenishment.

Mr. **Clymer**. Operating revenue?

Senator **Lautenberg**. What kind of trust fund commitments would you think there would be? There is a new policy obviously being introduced. Do you think that we will be looking at recommendations that would increase the sums going to mass transit in the future?

Mr. **Clymer**. I do not know where we are ultimately going to end up. I can give you some of the parameters. We calculated that if we were to spend down the trust fund over a period of 5 years it would approximate a level of $2.8 billion and then $1.4 billion thereafter.

If we were to spend the trust fund based on level spending forever, it would be in the neighborhood of $2.2 or $2.3 billion. So those are sort of the outside parameters that we would be looking at.

Senator **Lautenberg**. I am trying to find out what the view is of the funding needs for transit in the future. Obviously, it is indicated by the fact that there are less requests for funding from the general funds and more from the trust fund.

Frankly, what I fear and what I am going to be fighting very hard against, is that we will find that even the funding now coming from the trust fund will be reduced, because in the future in the reauthorization that is going to take place next year, there may be less support for transit out of the trust fund, or certainly out of the total that we get from the two sources, general funds and trust funds. I hope that is not the case because there is a kind of a telltale message in here that frankly scares me. We have not given transit the kind of support that it needs in this country. We see it. If you need any more direct evidence than the congestion on the highways and the quality of the air and the dependence on foreign oil, then we are operating with a blindfold.

NEW STARTS

Senator **Lautenberg**. This year, for the first time in some time, we are seeing requests by the administration for funds for new starts. What occasioned that? Why is that taking place suddenly? Is this a one-time request, or do you see the administration asking for more new start funds in the future?

Mr. **Clymer**. We are recognizing that we have four projects currently or about to be in full funding contract status that we have the obligation to complete.

Senator **Lautenberg**. I am sorry. Say that again.

Mr. **Clymer**. The administration is recognizing that we have a new start program that currently has four projects in or about to be in full funding contract status which we have an obligation to complete under this authorization.

Senator **Lautenberg**. The four are?

Mr. CLYMER. Los Angeles, St. Louis, Denver, and Miami.

OVERMATCH

Senator LAUTENBERG. Secretary Skinner's policy calls for overmatch by local authorities. In what program categories do you see this approach being most successful?

Mr. CLYMER. The approach for overmatch is most successful in the area of section 3 discretionary funds, both in the new starts area and in the rail modernization area, and also in the bus categories.

The overmatch initiative is one that is really born out of a sense of practicality. Many regions have realized that they are just not able to get projects of the magnitude they are proposing to the table, and ultimately developed and through construction if they have to rely on competing in a relatively limited area. So they have taken the initiative to come up with greater local matches in order to advance these projects.

The overmatch initiative allows them to get a priority by moving up within the category that they are in. We will inject ourselves less into the management of those projects on the theory that if they are providing a greater percentage of the project on a local basis, they are also taking a harder look at how they are spending those dollars.

Senator LAUTENBERG. That would mean generally that those that have funds will get even more. And then you have to ask the question, what about the rural areas? Economically disadvantaged areas? How are they going to be able to meet the overmatch requirements?

Mr. CLYMER. Well, I think it comes down to a cost question. And certainly some of the economically disadvantaged areas are ones that have to be taken in a broader context of the type of system that they would like to put in, in terms of what the area or the region can afford, and what the commitment of the State as a whole is.

In considering the local financial commitment as required for new starts, we try to recognize the overmatch by calculating the cost per new rider based on total cost and not just the Federal share. That indicator gives us an idea of the overmatch to be considered on the merit of the project.

However, we also have to consider the financial capacity of an area in selecting new start projects. Areas should be developing those kinds of projects which best match their needs and their capability to fund those projects.

Senator LAUTENBERG. Which transit authorities are now providing more than statutorily required, and for what projects is the overmatch being used?

Mr. CLYMER. Well, I will submit this for the record. I can name a few of these: Atlanta on a total cost of $2.9 billion is providing a 47-percent match; Houston has a project providing a 50-percent match; Dallas has a project providing an 81-percent local match; Los Angeles, 59 percent; San Francisco providing 70 percent local; Chicago providing 67 percent local; Seattle providing 50 percent;

Honolulu is proposing a project that provides 70 percent; San Diego is providing 70 percent; New York is providing 50 percent.

Senator **Lautenberg**. What are those overmatches being used for typically?

Mr. **Clymer**. In most cases to fund light rail systems.

[The information follows:]

NON-FEDERAL SHARE OF SELECTED NEW START PROJECTS OR PROGRAMS WITH SUBSTANTIAL OVERMATCH

Project/program	Total cost (million)	Non-Federal share (percent)
Atlanta: A regional heavy rail system under construction since the mid 1970's with 33 miles open to revenue service and an additional 10 miles under design or construction. (Total cost represents phases A through D)	$2,880	47
Houston: A 20 mile rail transit system connecting the CBD and other major activity centers. In alternatives analysis	$1,100	50
Dallas: A 20 mile, 3-line LRT system centered on the CBD. In alternatives analysis and/or PE	$650	81
Los Angeles: A regional light and heavy rail system (18 miles of heavy rail from the LA CBD to the San Fernando Valley, a 22 mile light rail line between the LA and Long Beach CBD's and a 22 mile automated rail link in the median of the Century Freeway). Forty-nine of sixty-two miles are under construction	$5,166	59
San Francisco/Bay Area: A regional rail expansion program, including BART, light rail and commuter rail extensions. In various stages of project development	$2,100	70
Chicago: A multi-legged light rail collector/distributor system wholly within the CBD. In alternatives analysis	$600	67
Seattle: A 1.6 mile dual propulsion CBD bus tunnel. Under construction	$394	50
Honolulu: A 15 mile light rail line in the Central Corridor. In alternatives analysis	$1,300	70
San Diego: A comprehensive, regional light rail system. Five extensions and/or new lines are in various stages of development, only one of which is being advanced for Federal funding	$800	70
New York: The Queens local express connection, a one quarter mile tunnel to connect the Queen subway with the recently opened 63rd street tunnel. In alternatives analysis	$450	50
Santa Jose: A 20 mile LRT line in the Guadalupe corridor. The north leg is open to revenue service with the south leg scheduled to open by August 1991	$510	50
Baltimore: MTA is constructing a 22.5 mile central corridor LRT line with no federal funds	$440	100
Cleveland: A 6 mile heavy rail line relocation project between the CBD and University Circle. In alternatives analysis	$570	50
Salt Lake City: A 20 mile LRT project in the I–15 corridor. In alternatives analysis	$200	50
No overmatch: Washington, D.C.: Last 13.5 miles of 103 mile regional heavy rail system plan	$2,700	20

HONOLULU RAPID TRANSIT PROJECT

Senator **Lautenberg**. I have a question here for Senator Inouye. I understand that UMTA recently approved the Honolulu rapid transit project's alternatives analysis and draft environmental impact statement in a very expeditious manner. Was this expeditious treatment a result of Honolulu's proposed dedicated source of local funds for an overmatch, the soundness of Honolulu's proposed system or was it a combination of both factors?

Mr. **Clymer**. It is certainly a combination of all that, Mr. Chairman. Honolulu has been looking at a major transit guideway project off and on for many years. The process that they were involved in is one that has been going on for some time. They were nearing the end of that process, and they came to us. Through a grant provided by UMTA, they came up with a very innovative way of looking at the financial needs of the area, and deciding what the local match should be. They made the determination that in order to advance their project, they would need to provide a 70-percent local match, 30-percent Federal.

In addition, they have come to us and indicated a desire to use a very innovative method. They sent out a request for a proposal [RFP] to have the various technologies come in and compete against one another to put the most effective system into place for them.

Because they were close to the end of that process and because they have in process a local initiative to establish an excise tax to fund this project that required a certain runup in terms of putting out the RFP, their timeline was a somewhat condensed one.

In support of that effort we tried to accelerate our review process in order to accommodate their schedule. I would like to submit for the record some more information on the Honolulu project.

[The information follows:]

The other attractive feature of a Honolulu project is its potential cost effectiveness. Honolulu has many demographic and geographic features which make transit use extraordinarily high for a city its size (see attached table). These factors include the very high residential and employment densities and a high number of carless visitors. At the same time, the congested street system and lack of a cheap right-of-way for exclusive facilities, make it difficult to improve the already crowded existing bus system.

As a consequence, the minimum operable segment of the proposed rail line is likely to easily pass our minimum cost-effectiveness threshold.

HONOLULU'S CURRENT POPULATION AND TRANSIT RIDERSHIP

	Urban area population (thousands)	Urban area population density (per square mile)	Annual transit usage (millions of unlinked trips)	Annual rides/capita	Annual rides/VMT (bus only)
Honolulu	583	4,315	72.8	125	4.9
Portland	1,026	2,840	53.7	52	2.7
Philadelphia	4,113	4,052	360.0	89	5.6
Washington	2,763	3,424	339.0	123	4.3
Boston	2,678	3,126	284.3	106	4.6
Salt Lake City	674	2,225	20.9	31	1.6

NOTE.—The proposed Honolulu rail transit project would easily pass UMTA's cost effectiveness threshold test in part, because of the unique topographical, demographic, economic and transportation features of the island.

The financing package which appears to be emerging from the current session of the State legislature promises to be one of the most attractive for any rail proposal now before UMTA. Not only will it include a significant local public component generated by a newly increased sales tax, but there is a tremendous potential for significant revenue-producing joint development.

PREPARED STATEMENT

Senator **Lautenberg**. We welcome Senator Grassley here, our colleague on this subcommittee and invite him to ask his questions.

Senator **Grassley**. Well, thank you. I am going to submit an opening statement for the record instead of going through it.

[The statement follows:]

Statement of Senator Grassley

Thank you for attending this morning's hearing Mr. Clymer.

Since this is your first appearance before this committee, I took the opportunity to glance at your biography that was graciously provided me by your office. As I was reading your biography, I noticed that you were born in Morton, Pennsylvania (population 2,412) and that you presently live in Swarthmore, Pennsylvania (population 5,950).

I mention this to emphasize the importance of rural America's mass transportation needs. Too often the Federal Government sees the problems and needs of urban

America while forgetting about the needs of rural America. The name of your agency is an example of this. Instead of the Urban Mass Transportation Administration, why shouldn't it be called simply the Mass Transportation Administration?

I would urge you, Mr. Clymer, to remember your hometown of Morton and your neighbors in Swarthmore whenever you carry out your duties at UMTA. I would like to be assured that rural America has a friend at the Urban Mass Transportation Administration.

SECTION 3 GRANT APPLICATIONS

Senator **Grassley**. But in it, Mr. Clymer, I would have suggested that since you are from a community of about 2,400 and living in a community of about 6,000 and, even though you are working for an agency that has urban in its title—and I do not believe it ought to be there, but it is there—that as you make your decisions, you do not forget your roots and also the needs of the areas like my State of Iowa, which I cannot accuse you of yet forgetting, and I hope I never have the occasion to do that.

In July 1988 the State of Iowa submitted a consolidated statewide section 3 grant application. And this is a procedure that any State can use, so my State is not unique in this. This innovative application was favorably received in UMTA and recognized as a cooperative effort to maximize the efficient use of public transit funding.

And that grant was approved in September 1988, the Iowa Department of Transportation submitted a similar section 3 application on part of Iowa's transit systems in July 1989. The grant is necessary to meet Iowa's capital needs, which exceed the available Federal formula funds.

And as for the 1988 application, Iowa's transit system worked together to establish projects for the application. So far no decision approved or denied has been made on this application.

So my question is—and this is a general question, not in regard, just to this application, but I use that application as an example—what schedule or timetable does UMTA take when reviewing section 3 applications?

Are section 3 funds released monthly, quarterly, semiannually, or annually? And will UMTA view consolidated coordinated section 3 grant applications favorably in the future like I think you have been viewing them favorably in the past?

Mr. **Clymer**. When we deal with our formula funds, we have been able to put that on a quarterly basis. The amount of the formula, of course, is predictable and local areas know when to apply for the funds for a specific amount that is available for them. So we have been able to do that very effectively on a quarterly basis. And as we discussed somewhat earlier, we are running very favorably in terms of obligating those dollars promptly.

It is a little bit more difficult with the section 3 applications. Section 3 applicants, of course, understand that they are dealing with a limited pot of funds. So we have resisted any attempt to put it on a quarterly basis, because the applicants would simply all apply in the first quarter, knowing that there is that competition.

What we try to do each fiscal year is wait until we have had the opportunity to review the grantee's plans for use of their section 9 formula dollars, and then take that into consideration in awarding section 3 funds.

This year in particular I wanted to be able to look at the full universe of section 3 funds before making decisions about individual grant requests. In the bus category, for example, of which your grant is one, we have approximately 325 million dollars' worth of applications for approximately 87 million dollars' worth of availability.

But to answer the second part of your question, we do view consolidated and coordinated section 3 applications favorably in the context of all of our other program priorities.

OPERATING ASSISTANCE

Senator GRASSLEY. My next question is a more general question.

The budget estimates for fiscal year 1991 states that Federal operating assistance is more effectively utilized by smaller areas. Average operating cost per vehicle hour in the largest cities are 60 percent higher than the average for the smaller cities, indicating that smaller urbanized areas are more efficient in controlling their operating cost. The Federal Government should not be required to subsidize those activities whose costs are largely determined by local decisionmaking.

I have got to have some additional background on that in reference to it. So I guess I am asking for you to expand on that with some detail.

Mr. CLYMER. Systems in areas under 200,000 are smaller. They tend to operate in a much less complex and lower cost environment. They tend to have higher labor productivity and lower average compensation for employees.

The large urban systems have to have more employees dedicated to planning, marketing, security, and things like that, which small systems with less complex requirements do not often require. In addition large urban areas' average wage rates tend to be higher than small urban areas.

Senator GRASSLEY. So then that is the basis for the emphasis upon that method of figuring cost and determining grant and help?

Mr. CLYMER. The point that we have with this is that the smaller cities really have much greater cost control over their operations than do the large cities. That should not be confused with our philosophical idea of cutting operating expenses for the cities and areas over 1 million, because the cities in the smaller areas are characteristically different. They tend to have lower farebox recoveries and tend to be much more reliant on Federal operating assistance. And we recognize that fact.

We had a discussion earlier with regard to the cities over 1 million, in which we indicated that they in the past had a tendency to have costs less under control.

However, with the cutting back of Federal operating assistance and forcing them to be more locally responsive, they have started to get those costs under control. Cities over 1 million continue to be our area of concern.

RURAL TRANSIT

Senator GRASSLEY. This is my last question.

Urban areas depend on public transit, as we all know, to help relieve congestion, get people around easier, but it also has got something to do with air quality, et cetera—all kinds of reasons.

Rural areas find the inner-city public transit connections in some instances a very necessary and vital link throughout the Nation and, in some cases, the only link that they might have. Sometimes—and that is particularly true maybe for the elderly and the handicapped.

So, my question is, Are rural transit systems as competitive as urban systems when seeking discretionary funding? And maybe you cannot give it to me for this—right now. But I guess, besides the answer to your question now, I would like to have a statistical backup, if you can provide one.

Mr. Clymer. OK, I think I can take a shot at that.

The answer is, yes. The rural areas have been quite competitive in seeking these types of funds. The rural areas get 2.93 percent of the section 9 formula dollars under the legislative formula in our authorizing legislation. So if we keep that approximate 3 percent in perspective, in fiscal year 1988 the amount of section 3 funds obligated for rural areas was $13.1 million, which was approximately 5.4 percent of the available bus funds.

In fiscal 1989, UMTA obligated for rural areas $11.9 million of section 3 funds, which is approximately 4 percent of the available bus funds. This year, we have approximately $325 million of demand against an $87 million availability. Of that, State applicants—both urbanized and rural—have initiated approximately 51 million dollars' worth of grant requests.

Areas of 50,000 to 200,000 have applied for approximately 25 million dollars' worth of grants. Areas under 50,000 have applied for about 11 million dollars' worth of grants.

We would expect that obligations to these areas would probably run pretty much along the lines of what they have in prior years from a percentage standpoint, which is quite competitive with the percentage they get from section 9.

And as you indicated earlier, Iowa has done quite well in the competition.

Senator Grassley. I thank you, Mr. Clymer, and thank you, Mr. Chairman.

Senator Lautenberg. Thank you, Mr. Grassley.

I am just curious, what is Des Moines' population?

Senator Grassley. Des Moines and the county around it and maybe just a little bit around the outside of that county would be roughly 300,000.

Senator Lautenberg. Out of a total population of?

Senator Grassley. It is about one-tenth of our State population of 2.9 million.

Senator Lautenberg. It is really funny, because you focused on the rural side of things. But in New Jersey, which is the most densely populated State in the country, the largest city is just about 4 percent of its population. That is our largest city. And then we go down from there. We have got lots of cities with 50,000 and 30,000.

And so, I do not know whether we qualify as rural. But we have a lot of small cities, I can tell you, lots of them.

Senator **Grassley**. Obviously, the people who live in those rural areas consider themselves rural. I am sure they do.

Senator **Lautenberg**. Well, we have a good quality of life in there, but it has to be helped by major infusions of capital for transit systems, yes.

Mr. **Clymer**. It can also depend on the perspective of where you live. As you may or may not know, Senator, I was born in New Jersey and own property in southern New Jersey. It is difficult to understand how it is the most densely populated State from driving through parts of southern New Jersey.

Senator **Lautenberg**. It is a beautiful State. Anyway, thank you very much, Senator Grassley.

Senator Sasser, did you have a couple of questions.

TENNESSEE/REGION IV

Senator **Sasser**. Yes, thank you. Thank you very much, Mr. Chairman.

Mr. Clymer, as you perhaps know several years ago the State of Tennessee, which I represent, was transferred to UMTA's Philadelphia region. At that time I requested in response to Tennessee transit officials that the State of Tennessee be transferred out from the Philadelphia region back to the Atlanta region.

And I understand that UMTA officials have recently indicated informally that Tennessee would be returned to the Atlanta region.

Do you know what either you or your colleagues happen to know the specifics of UMTA's plan with regard to that transfer?

Mr. **Clymer**. The specifics, Senator, with regard to my directives and my concerns, center very much around our 1991 budget. In that budget, we have recognized a growing strain on our regional offices. This was the reason for the transfer in the first place, to accommodate workload, in addition to trying to accommodate some of our concerns with regard to Federal oversight of Federal projects.

We now have somewhere in the neighborhood of 30 billion dollars' worth of projects outstanding. To that end, we have requested additional full-time employees [FTE's] in our 1991 budget for the regions. When we accomplish that, then, it is our intention to return Tennessee to our region 4.

Senator **Sasser**. Do you know what timeframe might be on that?

Mr. **Clymer**. It would probably come close on the heels of successful budget approval.

Senator **Sasser**. All right. Now, let me ask you this question, Mr. Clymer. In looking at your statement here on page 6, you state: "In larger urbanized areas where Federal operating assistance is something like 4 percent of total operating cost, we see a perfectly valid opportunity for proposing a reduction in the Federal budget that local transit managers will be able to accommodate with minimum difficulty."

What do you characterize as larger urbanized areas?

Mr. **Clymer**. We are specifically referring to 30 cities with over 1 million population. And we can submit a schedule for the record that would show the cities and the percentage of——

Senator **Sasser**. Let me just ask you if Memphis, TN, is on that list?

Mr. **Clymer**. Our definition of "larger" is an area in excess of 1 million in population. No; Memphis is not on the list.

Senator **Sasser**. All right. Thank you very much. I say that for this reason, we have had a lot of problems in Memphis in trying to keep a first-class mass transit system operating there.

There is a large minority population in Memphis that has to rely on to a substantial extent on the urban mass transit to get back and forth to their jobs. And so we have had to fight hard there to keep the fares as low as possible and keep the service as convenient as possible.

And over the years we have learned that they simply have a very, very difficult time with that transit system, when there is any reduction in Federal assistance. So that is what prompts the question.

Senator **Lautenberg**. Thank you very much.

Senator Mikulski, did I understand you correctly? You will wait until Ms. Turner makes her statement?

Senator **Mikulski**. Yes, I do, Mr. Chairman. I just wanted to comment that I heartily support the statements that you have made in your opening statement about mass transit and will reserve my questions until such time as Ms. Turner appears.

Senator **Lautenberg**. Thank you very much. I appreciate it. You and I are obviously on the right side of the issue here and we agree totally with our rural States here that we have to be included in.

What I would like to do, Mr. Clymer, is ask you to stay at the table and, if you could reduce the staff size just momentarily, while we have Ms. Turner come to the witness table.

Perhaps it would be of interest to you to hear her comments and vice versa.

SUBMITTED QUESTIONS

We will submit the balance of the questions for your response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

SECTION 9 -- FORMULA GRANTS

SENATOR LAUTENBERG: Update the tables contained on page 248 of Senate Hearings Report 101-285, part 1.

ANSWER: The following table shows the percentage of total operating costs covered by Federal operating assistance in 1988:

Area Size	Federal Assistance As Percent of Operating Expenses (1988)
Over 1 million	5.2 %
500,000 to 1 million	15.6 %
200,000 to 500,000	17.4 %
(All Areas Over 200,000)	6.1 %
Areas under 200,000	23.9 %

The share of operating expenses covered by Federal assistance in certain key operators was as follows in 1988:

New York City TA	2.2 %
New Jersey Transit	6.3 %
SEPTA	5.0 %
Baltimore MTA	7.3 %
Chicago TA	6.4 %
Chicago (all RTA operators)	3.8 %
SCRTD	9.8 %
San Francisco Muni	2.9 %
Seattle Metro	2.8 %

SENATOR LAUTENBERG: For the record, provide a breakdown of Section 9 capital obligations by activity for Fiscal Years 1988 and 1989. Refer to Senate Report 101-285, part 1, page 253.

ANSWER: The following table depicts the Fiscal Years 1988 and 1989 distribution of capital obligations by activity:

FORMULA ASSISTANCE PROGRAM
CAPITAL OBLIGATIONS BY ACTIVITY

	FY 1988	FY 1989
Bus and Bus Related	45.0%	55.6%
Rail Modernization	53.0%	40.7%
New Systems	0.7%	1.2%
Planning	1.3%	2.5%

SENATOR LAUTENBERG: For the record, list the unobligated Section 9 formula funds by Fiscal Year.

ANSWER: The information follows:

Unobligated Section 9 Formula Funds
(As of November 21, 1989)

Fiscal Year	Unobligated Funds ($ Millions)
1987	$ 46.8
1988	$ 122.1
1989	$ 268.4
1990	$1,626.2*
	$2,063.5

* The Fiscal Year 1990 Appropriations Act was signed into law on November 21, 1989.

SENATOR LAUTENBERG: List the cities, amount and project descriptions where formula funds were used for new start projects (include Fiscal Years 1987, 1988, and 1989):

ANSWER: The following table displays the use of formula funds for new system projects for Fiscal Years 1987, 1988, and 1989:

FISCAL YEARS 1987, 1988, AND 1989 USE OF FORMULA FUNDS FOR NEW SYSTEM PROJECTS

1987

Los Angeles, CA	Construct Rail Transit Line from Union Station to Alvarado Street	$15,600,000
San Diego, CA	Construct LRT from Euclid Avenue to El Cajon	11,334,000
San Jose, CA	Construct LRT from Downtown South to Santa Teresa	9,698,040
	Total............	$36,632,040

1988

San Diego, CA	Construct LRT from Euclid Avenue to El Cajon	$ 3,719,320
San Jose, CA	Construct LRT from Downtown South to Santa Teresa	3,901,960
Portland, OR	Westside Corridor Preliminary Engineering	1,657,988
	Total............	$ 9,279,268

1989

San Francisco, CA	New BART station in Colma	$ 3,647,200
San Diego, CA	Construct LRT from Euclid Avenue to El Cajon	3,000,000
	Reconstruction of Paradise Bridge on South LRT Line	642,000
San Jose, CA	Construct LRT from Downtown South to Santa Teresa	3,852,000
Portland, OR	LRT security equipment and monitoring system	74,720
	Total............	$11,215,920

SENATOR LAUTENBERG: Update the table on urbanized areas without conventional mass transit service found on page 255, Senate Report 101-285, part 1.

ANSWER: The information follows for FY 1989:

URBANIZED AREAS WITHOUT CONVENTIONAL MASS TRANSIT SERVICE

			APPORTIONMENT	
REGION	UZA	FY 1988	FY 1989	FY 1990
III	Jacksonville, NC.	359,714	329,899	335,180
	Concord, NC.	366,770	336,370	341,728
	Burlington, NC.	367,740	337,260	342,567
	Goldsboro, NC.	286,334	262,601	266,801
IV	Rock Hill, SC.	262,170	240,440	244,261
	Fort Walton Beach, FL.	452,107	414,635	421,199
	Winter Haven, FL.	403,936	370,455	376,278
	Fort Pierce, FL.	360,812	330,906	336,173
	Naples, FL.	258,180	236,781	240,587
	Panama City, FL.	413,395	379,131	385,143
	Warner Robins, GA.	326,743	299,661	304,326
V	Kokomo, IN.	464,089	425,623	432,055
VI	Fayetteville-Springdale, AR.	295,661	271,155	275,529
	Houma, LA.	337,786	309,788	314,716
	Fort Smith, OKLA.	10,291	9,436	9,588
	Lawton, OKLA.	564,537	517,744	525,819
	Bryan-College Station, TX.	481,371	441,473	448,371
	Harlingen-San Benito, TX.	376,343	345,150	350,564
	Killeen, TX.	573,856	526,292	534,389
	Longview, TX.	360,937	331,019	336,280
	McAllen, TX.	1,094,739	1,004,016	1,019,341
	Odessa, TX.	668,862	613,423	622,846
	Temple, TX.	258,574	237,142	240,947
	Texarkana, TX.	247,285	226,789	230,363
	Texas City, TX.	498,280	456,980	464,391
	Tyler, TX.	455,249	417,515	423,974
	Victoria, TX.	355,578	326,106	331,078
VII	Joplin, MO.	278,553	255,466	259,569
VIII	Bismarch-Mandan, N.D.	382,461	350,761	356,185
	Cheyenne, WY.	376,876	345,640	350,964
IX	Yuma, AZ.	368,352	337,821	342,993

SENATOR LAUTENBERG: Under the Administration's proposed budget, how many of the urbanized areas of less than 200,000 in population would receive a funding allocation smaller than their operating assistance cap? (Please list those areas and the difference between the cap and the allocation.)

ANSWER: The Administration's budget now proposes that areas under 1,000,000 in population would receive basically the same amount of funds in Fiscal Year 1991 as in Fiscal Year 1990. Based upon this proposal, the Fiscal Year 1991 allocations to State Governors for areas of less than 200,000 in population would be at least equal to their Fiscal Year 1990 apportionments. However, the full allocation would not be available for operating assistance because 6.5 percent is from the Trust Fund under Section 9B.

Thirty-nine States would receive funding allocations smaller than their operating assistance limitations, as listed below. For a number of these States the difference would be very small.

Attachment

FISCAL YEAR 1991 UMTA FORMULA PROGRAM BUDGET PROPOSAL

ESTIMATED SECTION 9 FORMULA APPORTIONMENTS
VS.
ESTIMATED SECTION 9 OPERATING ASSISTANCE LIMITATIONS

AREAS LESS THAN 200,000 IN POPULATION

ALLOCATIONS TO STATE GOVERNORS FOR URBANIZED AREAS 50,000-200,000 IN POPULATION	FY 1991 BUDGET PROPOSAL ESTIMATED APPORTIONMENTS	FY 1991 BUDGET PROPOSAL ESTIMATED GENERAL FUND APPORTIONMENTS	FY 1991 BUDGET PROPOSAL ESTIMATED OPER. ASST. LIMITATIONS	DIFFERENCE BETWEEN GEN. FUND APPORT. AND OPER. ASST. LIMITATIONS
ALABAMA....................................	$3,925,485	$3,670,299	$4,089,388	($419,089)
ALASKA....................................	795,994	744,248	783,927	(39,679)
ARIZONA....................................	342,600	320,328	316,861	3,467
ARKANSAS....................................	1,156,554	1,081,369	1,234,158	(152,789)
CALIFORNIA....................................	12,639,346	11,817,693	11,022,851	794,842
COLORADO....................................	2,593,277	2,424,694	2,570,501	(145,807)
CONNECTICUT....................................	11,157,905	10,432,557	7,503,152	2,929,405
DELAWARE (NONE)				
FLORIDA....................................	5,424,394	5,071,767	4,941,254	130,513
GEORGIA....................................	3,021,032	2,824,642	3,216,664	(392,022)
HAWAII....................................	773,797	723,494	728,522	(5,028)
IDAHO....................................	1,123,321	1,050,297	1,023,272	27,025
ILLINOIS....................................	7,449,765	6,965,474	8,376,174	(1,410,700)
INDIANA....................................	4,588,837	4,290,528	4,730,725	(440,197)
IOWA....................................	2,560,406	2,393,960	2,750,207	(356,247)
KANSAS....................................	1,100,406	1,028,871	1,173,308	(144,437)
KENTUCKY....................................	2,327,697	2,176,379	2,304,047	(127,668)
LOUISIANA....................................	2,719,908	2,543,131	2,715,029	(171,898)
MAINE....................................	1,174,525	1,098,172	1,249,054	(150,882)
MARYLAND....................................	1,030,661	963,660	961,492	2,168
MASSACHUSETTS....................................	5,134,896	4,801,089	6,041,849	(1,240,760)
MICHIGAN....................................	4,570,083	4,272,993	4,867,125	(594,132)
MINNESOTA....................................	1,552,583	1,451,653	1,689,247	(237,594)
MISSISSIPPI....................................	1,473,098	1,377,335	1,398,097	(20,762)
MISSOURI....................................	1,815,233	1,697,229	1,864,129	(166,900)
MONTANA....................................	1,313,094	1,227,733	1,337,444	(109,711)
NEBRASKA....................................	1,235,744	1,155,411	1,213,862	(58,451)
NEVADA....................................	$994,085	929,462	$858,701	70,761
NEW HAMPSHIRE....................................	1,486,580	1,389,941	1,437,788	(47,847)
NEW JERSEY....................................	1,165,764	1,089,981	1,800,255	(710,274)
NEW MEXICO....................................	563,673	527,030	530,286	(3,256)
NEW YORK....................................	3,715,506	3,473,970	4,292,396	(818,426)
NORTH CAROLINA....................................	6,369,081	5,955,042	6,340,451	(385,409)
NORTH DAKOTA....................................	1,116,201	1,043,639	1,069,104	(25,465)
OHIO....................................	3,615,898	3,380,837	3,794,237	(413,400)

ALLOCATIONS TO STATE GOVERNORS FOR URBANIZED AREAS 50,000-200,000 IN POPULATION	FY 1991 BUDGET PROPOSAL ESTIMATED APPORTIONMENTS	FY 1991 BUDGET PROPOSAL ESTIMATED GENERAL FUND APPORTIONMENTS	FY 1991 BUDGET PROPOSAL ESTIMATED OPER. ASST. LIMITATIONS	DIFFERENCE BETWEEN GEN. FUND APPORT. AND OPER. ASST. LIMITATIONS
OKLAHOMA.................................	787,637	736,435	836,806	(100,371)
OREGON...................................	2,515,779	2,352,234	2,203,973	148,261
PENNSYLVANIA.............................	7,203,314	6,735,044	7,751,862	(1,016,818)
PUERTO RICO..............................	5,031,957	4,704,842	4,627,856	76,986
RHODE ISLAND.............................	400,537	374,499	378,042	(3,543)
SOUTH CAROLINA...........................	1,259,148	1,177,294	1,222,176	(44,882)
SOUTH DAKOTA.............................	799,533	747,557	807,481	(59,924)
TENNESSEE................................	1,370,353	1,281,270	1,366,904	(85,634)
TEXAS....................................	12,599,386	11,780,330	12,335,485	(555,155)
UTAH.....................................	1,021,003	954,630	830,084	124,546
VERMONT..................................	398,218	372,331	374,149	(1,818)
VIRGINIA.................................	2,853,971	2,668,441	2,928,831	(260,390)
WASHINGTON...............................	2,405,165	2,248,811	2,219,335	29,476
WEST VIRGINIA............................	2,627,388	2,456,588	2,802,019	(345,431)
WISCONSIN................................	5,973,952	5,585,600	6,077,223	(491,623)
WYOMING..................................	750,248	701,476	706,088	(4,612)
SUBTOTAL	$150,025,056	$140,272,290	$147,693,877	($7,421,587)
200,000-1,000,000 IN POPULATION	$270,071,924	$252,515,202	$150,106,123	$102,409,079
50,000-200,000 IN POPULATION	150,025,056	140,272,290	147,693,877	(7,421,587)
NATIONAL TOTALS	$420,096,980	$392,787,492	$297,800,000	$94,987,492

SENATOR LAUTENBERG: Provide the Fiscal Year 1990 formula grants apportionments (as displayed on pages 380 through 384 of last year's hearing).

ANSWER: The information follows:

UMTA FORMULA GRANTS PROGRAM

FISCAL YEAR 1990 SECTION 9 FORMULA APPORTIONMENTS

FOR URBANIZED AREAS

URBANIZED AREA	FY 1990 APPORTIONMENT		
	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
OVER 1,000,000 IN POPULATION:			
Atlanta, Georgia..........................	$20,225,940	$905,090	$21,131,030
Baltimore, Maryland.......................	18,267,741	816,178	19,083,919

URBANIZED AREA	FY 1990 APPORTIONMENT GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Boston, Massachusetts	46,141,855	2,066,611	48,208,466
Buffalo, New York	7,569,795	337,634	7,907.429
Chicago, Illinois-Northwestern Indiana	124,060,136	5,477,189	129,537,325
Cincinnati, Ohio-Kentucky	8,222,052	366,633	8,588,635
Cleveland, Ohio	16,144,095	720,769	16,864,864
Dallas-Fort Worth, Texas	17,257,243	769,561	18,026,804
Denver, Colorado	12,246,689	546,140	12,792,829
Detroit, Michigan	24,571,376	1,095,403	25,666,779
Fort Lauderdale-Hollywood, Florida	6,506,643	290,031	6,796,674
Houston, Texas	19,671,400	877,212	20,548,612
Kansas City, Missouri-Kansas	5,700,091	254,074	5,954,165
Los Angeles-Long Beach, California	96,878,177	4,322,427	101,200,604
Miami, Florida	17,063,822	761,904	17,825,726
Milwaukee, Wisconsin	11,150,570	497,192	11,647,762
Minneapolis-St. Paul, Minnesota	13,406,255	598,043	14,004,298
New Orleans, Louisiana	11,347,132	508,335	11,855,467
New York, N.Y.-Northeastern New Jersey	376,341,709	17,142,584	393,484,293
Philadelphia, Pennsylvania-New Jersey	70,806,296	3,169,875	73,976,171
Phoenix, Arizona	7,844,431	349,644	8,194,075
Pittsburgh, Pennsylvania	21,806,654	973,974	22,780,628
Portland, Oregon-Washington	11,816,252	527,347	12,343,599
St. Louis, Missouri-Illinois	13,588,843	585,830	14,174,673
San Diego, California	17,018,440	760,212	17,778,652
San Francisco-Oakland, California	61,522,969	2,754,095	64,277,064
San Jose, California	14,054,120	627,901	14,682,021
San Juan, Puerto Rico	9,040,077	403,344	9,443,421
Seattle-Everett, Washington	22,798,578	1,019,123	23,817,701
Washington, D.C.-Maryland-Virginia	49,495,859	2,216,563	51,712,422
SUBTOTAL	$1,152,565,240	$51,740,918	$1,204,306,158
200,000-1,000,000 IN POPULATION:			
Akron, Ohio	$3,152,554	$140,505	$3,293,059
Albany-Schenectady-Troy, New York	4,428,760	197,439	4,626,199
Albuquerque, New Mexico	2,519,881	112,312	2,632,193
Allentown-Bethlehem-Easton, Pa.-N.J	$2,230,603	$99,434	$2,330,037
Ann Arbor, Michigan	1,978,910	88,197	2,067,107
Augusta, Georgia-South Carolina	994,720	44,338	1,039,058
Austin, Texas	4,276,587	190,582	4,467,169
Bakersfield, California	1,698,696	75,711	1,774,407
Baton Rouge, Louisiana	1,858,753	82,874	1,941,627
Birmingham, Alabama	3,042,257	135,602	3,177,859
Bridgeport, Connecticut	3,484,309	155,950	3,640,259

URBANIZED AREA	FY 1990 APPORTIONMENT		
	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Canton, Ohio..............................	1,257,731	56,055	1,313,786
Charleston, South Carolina.................	1,629,145	72,641	1,701,786
Charlotte, North Carolina..................	2,544,881	113,479	2,658,360
Chattanooga, Tennessee-Georgia.............	1,493,828	66,598	1,560,426
Colorado Springs, Colorado.................	1,850,621	82,516	1,933,137
Columbia, South Carolina...................	1,681,981	74,980	1,756,961
Columbus, Georgia-Alabama..................	1,067,429	47,578	1,115,007
Columbus, Ohio.............................	6,516,423	290,508	6,806,931
Corpus Christi, Texas......................	1,683,765	75,047	1,758,812
Davenport-Rock Island-Moline, Iowa-Illinois	1,832,411	81,673	1,914,084
Dayton, Ohio...............................	7,594,717	339,686	7,934,403
Des Moines, Iowa...........................	1,670,652	74,472	1,745,124
El Paso, Texas.............................	3,491,590	155,739	3,647,329
Fayetteville, North Carolina...............	818,105	36,465	854,570
Flint, Michigan............................	1,997,079	89,010	2,086,089
Fort Wayne, Indiana........................	1,606,963	71,621	1,678,584
Fresno, California.........................	2,617,160	116,670	2,733,830
Grand Rapids, Michigan.....................	2,304,746	102,729	2,407,475
Greenville, South Carolina.................	1,170,780	52,181	1,222,961
Harrisburg, Pennsylvania...................	1,490,541	66,449	1,556,990
Hartford, Connecticut......................	4,458,288	198,759	4,657,047
Honolulu, Hawaii...........................	12,195,700	544,430	12,740,130
Indianapolis, Indiana......................	4,772,171	212,735	4,984,906
Jackson, Mississippi.......................	1,204,077	53,665	1,257,742
Jacksonville, Florida......................	3,943,856	175,837	4,119,693
Knoxville, Tennessee.......................	1,317,139	58,704	1,375,843
Lansing, Michigan..........................	1,701,187	75,822	1,777,009
Las Vegas, Nevada..........................	2,389,814	106,561	2,496,375
Lawrence-Haverhill, Mass.-New Hampshire....	2,009,209	89,819	2,099,028
Little Rock-North Little Rock, Arkansas....	1,672,152	74,548	1,746,700
Lorain-Elyria, Ohio........................	611,499	27,251	638,750
Louisville, Kentucky-Indiana...............	$6,318,629	$281,734	$6,600,363
Madison, Wisconsin.........................	2,682,832	119,645	2,802,477
Melbourne-Cocoa, Florida...................	1,125,455	50,172	1,175,627
Memphis, Tennessee-Arkansas-Mississippi....	4,950,596	220,643	5,171,239
Mobile, Alabama............................	1,410,309	62,861	1,473,170
Nashville-Davidson, Tennessee..............	2,662,406	118,690	2,781,096
New Haven, Connecticut.....................	3,855,845	172,547	4,028,392
Newport News-Hampton, Virginia.............	1,786,488	79,647	1,866,135
Norfolk-Portsmouth, Virginia...............	4,916,180	219,132	5,135,312
Ogden, Utah................................	1,451,048	64,685	1,515,733
Oklahoma City, Oklahoma....................	2,754,267	122,750	2,877,017
Omaha, Nebraska-Iowa.......................	3,665,156	163,360	3,828,516
Orlando, Florida...........................	4,986,452	222,749	5,209,201

URBANIZED AREA	FY 1990 APPORTIONMENT GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Oxnard-Ventura-Thousand Oaks, California...	1,787,102	79,653	1,866,755
Pensacola, Florida.........................	1,066,535	47,536	1,114,071
Peoria, Illinois...........................	1,437,802	64,075	1,501,877
Providence-Pawtucket-Warwick, R.I.-Mass....	9,595,325	429,197	10,024,522
Raleigh, North Carolina....................	1,246,931	55,583	1,302,514
Richmond, Virginia.........................	3,843,625	171,369	4,014,994
Rochester, New York........................	4,703,441	209,675	4,913,116
Rockford, Illinois.........................	1,124,776	50,132	1,174,908
Sacramento, California.....................	6,343,773	283,004	6,626,777
St. Petersburg, Florida....................	5,200,610	231,820	5,432,430
Salt Lake City, Utah.......................	6,027,080	268,741	6,295,821
San Antonio, Texas.........................	10,422,204	464,727	10,886,931
San Bernardino-Riverside, California.......	4,431,596	197,511	4,629,107
Sarasota-Bradenton, Florida................	1,529,915	68,186	1,598,101
Scranton-Wilkes-Barre, Pennsylvania........	2,269,843	101,178	2,371,021
Shreveport, Louisiana......................	1,531,726	68,274	1,600,000
South Bend, Indiana-Michigan...............	1,456,382	64,914	1,521,296
Spokane, Washington........................	2,709,996	120,804	2,830,800
Springfield-Chicopee-Holyoke, Mass.-Conn...	3,966,872	176,826	4,143,698
Syracuse, New York.........................	3,463,467	154,382	3,617,849
Tacoma, Washington.........................	4,021,305	179,366	4,200,671
Tampa, Florida.............................	4,412,581	196,748	4,609,329
Toledo, Ohio-Michigan......................	3,328,480	148,366	3,476,846
Trenton, New Jersey-Pennsylvania...........	2,416,044	107,877	2,523,921
Tucson, Arizona............................	4,203,174	187,376	4,390,550
Tulsa, Oklahoma............................	2,161,134	96,309	2,257,443
West Palm Beach, Florida...................	$2,583,213	$115,141	$2,698,354
Wichita, Kansas............................	1,763,084	78,586	1,841,670
Wilmington, Delaware-New Jersey-Maryland...	2,387,114	106,402	2,493,516
Worcester, Massachusetts...................	2,102,140	93,691	2,195,831
Youngstown-Warren, Ohio....................	1,798,605	80,157	1,878,762
SUBTOTAL	$260,163,208	$11,603,393	$271,766,601
50,000-200,000 IN POPULATION: Governor's apportionment for areas 50,000-200,000 in population --			
ALABAMA....................................	$3,761,331	$168,655	$3,929,986
ALASKA.....................................	762,708	34,199	796,907
ARIZONA....................................	328,273	14,720	342,993
ARKANSAS...................................	1,108,190	49,690	1,157,880
CALIFORNIA.................................	12,110,802	543,038	12,653,840
COLORADO...................................	2,484,833	111,418	2,596,251

URBANIZED AREA	FY 1990 APPORTIONMENT		
	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
CONNECTICUT	10,664,210	479,389	11,143,599
DELAWARE (NONE)			
FLORIDA	5,197,560	233,054	5,430,614
GEORGIA	2,894,700	129,796	3,024,496
HAWAII	741,439	33,245	774,684
IDAHO	1,076,347	48,262	1,124,609
ILLINOIS	7,138,236	320,072	7,458,308
INDIANA	4,396,944	197,155	4,594,100
IOWA	2,453,337	110,005	2,563,342
KANSAS	1,054,390	47,278	1,101,668
KENTUCKY	2,230,359	100,007	2,330,366
LOUISIANA	2,606,207	116,860	2,723,067
MAINE	1,125,410	50,462	1,175,872
MARYLAND	987,561	44,282	1,031,843
MASSACHUSETTS	4,920,169	220,616	5,140,785
MICHIGAN	4,378,974	196,350	4,575,324
MINNESOTA	1,487,659	66,705	1,554,364
MISSISSIPPI	1,411,497	63,290	1,474,787
MISSOURI	1,739,325	77,990	1,817,315
MONTANA	1,258,184	56,416	1,314,600
NEBRASKA	1,184,068	53,093	1,237,161
NEVADA	$952,515	$42,710	$995,225
NEW HAMPSHIRE	1,424,415	63,870	1,488,285
NEW JERSEY	1,117,015	50,086	1,167,101
NEW MEXICO	540,102	24,218	564,320
NEW YORK	3,560,133	159,633	3,719,766
NORTH CAROLINA	6,102,743	273,642	6,376,385
NORTH DAKOTA	1,069,525	47,957	1,117,482
OHIO	3,464,690	155,354	3,620,044
OKLAHOMA	754,700	33,840	788,540
OREGON	2,410,576	108,088	2,518,664
PENNSYLVANIA	6,902,090	309,484	7,211,574
PUERTO RICO	4,821,534	216,193	5,037,727
RHODE ISLAND	383,788	17,209	400,997
SOUTH CAROLINA	1,206,494	54,098	1,260,592
SOUTH DAKOTA	766,099	34,351	800,450
TENNESSEE	1,313,048	58,876	1,371,924
TEXAS	12,072,513	541,321	12,613,834
UTAH	978,307	43,867	1,022,174
VERMONT	381,565	17,109	398,674
VIRGINIA	2,734,626	122,618	2,857,244
WASHINGTON	2,304,587	103,336	2,407,923
WEST VIRGINIA	2,517,518	112,883	2,630,401

URBANIZED AREA	FY 1990 APPORTIONMENT		
	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
WISCONSIN..................................	5,724,137	256,665	5,980,802
WYOMING....................................	718,874	32,234	751,108
SUBTOTAL	$143,724,307	$6,445,689	$150,169,996
OVER 1,000,000 IN POPULATION	$1,152,565,240	$51,740,918	$1,204,306,158
200,000-1,000,000 IN POPULATION	260,163,208	11,603,393	271,766,601
50,000-200,000 IN POPULATION	143,724,307	6,445,689	150,169,996
NATIONAL TOTALS	$1,556,452,755	$69,790,000	$1,626,242,755

FISCAL YEAR 1990

UMTA SECTION 18 FORMULA APPORTIONMENTS AND

RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) ALLOCATIONS

TO THE STATES FOR NONURBANIZED AREAS

STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION	STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION
ALABAMA............	$1,574,903	$89,633	NEBRASKA...........	692.341	67,423
ALASKA.............	171,373	54,313	NEVADA.............	151,934	53,823
AMERICAN SAMOA.....	23.898	10.601	NEW HAMPSHIRE......	464,342	61.685
ARIZONA............	595,376	64,983	NEW JERSEY.........	794.118	69.984
ARKANSAS...........	1.274,977	82,085	NEW MEXICO.........	575,356	64.479
CALIFORNIA.........	2,819,071	120,942	NEW YORK...........	2,786,381	129.120
COLORADO...........	645.892	66.254	NORTH CAROLINA.....	2,870,766	122.243
CONNECTICUT........	586.590	64.762	NORTH DAKOTA.......	352.116	58.861
DELAWARE...........	167.800	54.223	NORTHERN MARIANAS..	12,416	10.312
FLORIDA............	1.715,048	93,159	OHIO...............	3,151.708	129.313
GEORGIA............	2,116.117	103.252	OKLAHOMA...........	1.301,128	82.743
GUAM...............	78,418	11,973	OREGON.............	1,009,925	75,415
HAWAII.............	204.605	55.149	PENNSYLVANIA.......	3,474.484	137.436
IDAHO..............	559,160	64,071	PUERTO RICO........	1,092,897	77,503
ILLINOIS...........	2.317,958	108.332	RHODE ISLAND.......	115,686	52.912
INDIANA............	2,137.726	103.796	SOUTH CAROLINA.....	1,429,667	85.978
IOWA...............	1.466.521	86,905	SOUTH DAKOTA.......	408.490	60.280
KANSAS.............	1.116.659	78.101	TENNESSEE..........	1,853.267	96.638
KENTUCKY...........	1.796.639	95.213	TEXAS..............	3.774.300	144.980
LOUISIANA..........	1.483.012	87.320	UTAH...............	304,405	57.660
MAINE..............	647.809	66.302	VERMONT............	321,820	58.099
MARYLAND...........	795.881	70.028	VIRGIN ISLANDS.....	71.454	11,798
MASSACHUSETTS......	956.252	74.064	VIRGINIA...........	1,703.596	92.874
MICHIGAN...........	2,575.219	114,806	WASHINGTON.........	1,117,822	78.130
MINNESOTA..........	1.496.177	87,651	WEST VIRGINIA......	1,144,140	78,792
MISSISSIPPI........	1.429.477	85,973	WISCONSIN..........	1,752.988	94.114
MISSOURI...........	1.699.316	92.763	WYOMING............	260,340	56,550
MONTANA............	427,736	60,764			
TOTAL				$65,867,497	$4,247,563

ADMINISTRATIVE EXPENSES

SENATOR LAUTENBERG: Why the 40 percent jump in travel from $498,000 to $692,000?

ANSWER: In order to absorb more than $1 million in mandatory increases in personnel and rent costs in fiscal year 1990, UMTA had to significantly reduce funding in other areas such as travel. Last year, in fiscal year 1989, UMTA obligated $649,000 for travel. Thus, our fiscal year 1991 request represents only a $43,000 increase. This increase is needed to cover travel for 10 new FTEs and to improve project and grantee oversight. The unusually low level of travel funds available in fiscal year 1990 prevented UMTA from conducting many of its triennial reviews at the grantees' worksites.

SENATOR LAUTENBERG: Why the jump in equipment from $20,000 to $331,000?

ANSWER: In fiscal year 1989, UMTA obligated $707,000 for equipment. Beause of the severe budget constraints in fiscal year 1990, we had to reduce equipment funding to allow only a limited number of replacement purchases on an emergency basis. This increase in funding in fiscal year 1991, which is $376,000 less than obligated in fiscal year 1989, will enable UMTA to resume its long-range planning for replacement and upgrading of aging computer equipment.

SENATOR LAUTENBERG: List the activities in the other category and explain the 21 percent increase from $3,977,000 to $4,811,000.

ANSWER: Attached is a listing of activities in the other category. The major increases in this area are in Working Capital Fund supported activities that provide administrative and ADP support services. Cost estimates for these activities are developed by the Office of the Secretary for inclusion in the UMTA budget. The $106,000 increase in training funding will restore the program to near the fiscal year 1989 level and allow continuance of the successful Excellence in UMTA program.

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
FY 1991 Other Services Detail
($ in 000's)

Object Class	Object Class Title	FY 1989 Actual (421 FTE)	FY 1990 Budget (415 FTE)	FY 1991 Request (425 FTE)
2520	ADMINISTRATIVE CONTRACTS	$173	$186	$192
2530	EMPLOYEE TRAINING	284	105	211
2540	ADMINISTRATIVE SERVICES (WCF)	483	525	643
2560	VISUALS AND GRAPHICS	21	21	23
2561	SECURITY INVESTIGATIONS	12	3	3
2562	OFFICE MACHINES (REPAIR)	125	130	109
2563	SPACE REARRANGEMENTS	39	5	5
2569	ADMINISTRATIVE SERVICES (OTHER)	2	2	2
2571	STORAGE OF HOUSEHOLD GOODS	2	0	0
2582	ADP SERVICES (TCC–T/S–WCF)	1,514	1,540	2,128
2583	ADP CONTRACT SUPPORT SERVICES	1,545	1,285	1,371
2590	OTHER CONTRACTUAL SERVICES	239	175	124
	TOTAL, Other Services	$4,439	$3,977	$4,811
	(WCF Included Above)	*$2,984*	*$3,012*	*$3,936*

SENATOR LAUTENBERG: Approximately 20 percent of your budget is for "Working Capital Fund" charges. What does this go for, and what control do you have over this expenditure?

ANSWER: UMTA is billed for a variety of services furnished by the Office of the Secretary, including telephone, administrative support, printing and reproduction, and ADP support. Some costs are population based and pro-rated among the modes. Others, such as ADP services provided by the Transportation Computer Center, are shared among the modes using the services and include operation and maintenance support for unique systems such as UMTA's Grants Management Information System and Financial Management System. Control of Working Capital Fund expenditures is exercised at the Department level.

SENATOR LAUTENBERG: On page 24 of the justification, in asking for additional travel funds, you state it is needed to address the Office of Inspector General's concerns that UMTA's grantee and project management oversight is inadequate. How is it inadequate?

ANSWER: UMTA has traditionally expended fewer travel dollars per employee than other modal administrations despite having more than 2,500 grantees. As a result of our historically low level of travel, UMTA staff have been unable to visit many of our smaller grantees in the past five to seven years and unable to visit some of our medium-sized grantees in the past three to five years. Where UMTA staff are not able to make on-site visits, they cannot visually verify the condition of Federally-funded assets and cannot verify that Federally-funded assets are being properly used.

SENATOR LAUTENBERG: What level of staffing and administration funding will be required over the next five years to meet OIG and GAO requirements?

ANSWER: In response to comments and concerns expressed by the OIG, UMTA is currently undertaking an agency-wide staffing and workload analysis. Although not yet completed, we believe that UMTA's complex grant and financial workload requires between 450 and 475 FTE workyears.

ENTREPRENEURIAL SERVICES CHALLENGE GRANTS

SENATOR LAUTENBERG: What is the status of the Entrepreneurial Services Challenge Grant Program? Has it been extended by Secretary Skinner?

ANSWER: Last year, Secretary Sam Skinner extended the Entrepreneurial Services program for a two-year period. Fiscal Year 1990 represents the second year of that commitment. The recently released "Statement of National Transportation Policy" encourages a partnership among all levels of government and the private sector" with the Entrepreneurial Services Program providing one of the key tangible examples of the Secretary's policy.

SENATOR LAUTENBERG: From which program(s) are the funds derived for this effort?

ANSWER: There are two types of financial programs available to implement entrepreneurial services: Section 3 capital grants and Section 8 implementation planning grants. Federal assistance is provided on a one-time basis. Section 3 grants can be utilized to pay for the lease costs of vehicles (or the equivalent capital cost if the vehicles are already owned by the company). Grant funds must be matched on a 75/25 basis.

Section 8 implementation grants are used to refine key elements of the Business Plan. Grant funds, for example, could be used for service and operations planning, market identification and analysis, marketing strategies, and financial planning. Planning funds are not meant to be used for feasibility studies but for planning only. Section 8 funds do not require a local match.

SENATOR LAUTENBERG: By year, list the awards granted, including the amount, recipient, and brief description of the purpose of the grant.

ANSWER: The answers are attached:

ENTREPRENEURIAL SERVICES PROJECTS
STATUS SUMMARY
FY 1988
(APPROVED)

CITY	RECIPIENT	AMOUNT	TYPE OF SERVICE
Ann Arbor, MI	Ann Arbor Transportation Authority	$77,000	Local circulation/elderly and handicapped
Boston, MA	Bromley Heath Tenant Management Corporation	150,000	Reverse commute
Camden, NJ	American Academy of Political and Social Science	91,992	Reverse commute
Chicago, IL	BRCE	489,600	Local circulation
Chicago, IL	LeClaire Courts Resident Management Corporation	90,000	Reverse commute
Chicago, IL	Metropolitan Transportation Association	126,000	Reverse commute
Cleveland, OH	Lakeview Terrace Resident Management Firm, Inc.	100,000	Fix route/reverse commute
Hammond, LA	City of Hammond	74,600	Local circulation
Houston, TX	Texas Department of Human Services	90,595	Reverse commute
Houston, TX	Houston-Galveston Area Council	75,000	Reverse commuter/local circulation
Jersey City, NJ	A. Harry Moore Tenant Management Corporation	95,000	Reverse commuter/local circulation
Laurel, MD	Corridor Transportation Corporation	59,000	Local circulation
Minneapolis, MN	Metropolitan Council	56,000	Reverse commute
Minnesota DOT	Minnesota Department of Transportation	60,375	Rural local circulation
Montgomery County, PA	Montgomery County Paratransit	51,500	Local circulation
Nashua, NH	City of Nashua	30,000	Commuter express
New Orleans, LA	B.W. Cooper Tenant Management Corporation	90,000	Reverse commute/local circulation
Orangeburg, SC	South Carolina State	30,000	Rural/elderly and handicapped
Philadelphia, PA	University of Pennsylvania	99,627	Reverse commute
Princeton, NJ	New Jersey Department of Transportation	65,000	Local circulation
Raleigh, NC	City of Raleigh	77,115	Local circulation
Rhode Island	Rhode Island State	15,000	Local circulation/commuter express
Rochester, NY	Ashanti Tenant Management Corporation	70,000	Reverse commute
Sacramento, CA	California Bus Association	20,150	Commuter express
San Bernardino, CA	Southern California Area Governments	110,000	Commuter express
Stamford, CT	Stamford Economic Assistance Corporation	25,000	Commuter express
Steamboat Springs, CO	City of Steamboat Springs	22,320	Commuter express
St. Louis, MO	Cochran Gardens Tenant Management Corporation	150,000	Reverse commute
Tulsa, OK	City of Tulsa	54,880	local circulation
Washington, DC	Anacostia Economic Development Corporation	96,100	Reverse commute/local circulation
Washington, DC	Kenilworth-Parkside Resident Management Corporation	50,000	Reverse commute
TOTAL APPROVED		$2,691,854	

ENTREPRENEURIAL SERVICES PROJECTS
STATUS SUMMARY
FY 1989
(APPROVED)

CITY	RECIPIENT	AMOUNT	TYPE OF SERVICE
Akron, OH	Akron Metro	$120,000	Local circulation
Atlanta, GA	Atlanta Regional Commission	84,151	Reverse commute
Baltimore, MD	Maryland Department of Transportation	95,000	Reverse commute
Chester, PA	Delaware County	82,500	Reverse commute
Chicago, IL	PACE	114,000	Local circulation
Philadelphia, PA	Delaware Valley Regional Planning Commission	50,000	Commute express
Derby, CT	Valley Regional Planning Agency	20,960	Commute express
Fall River, MA	Greater Attleboro Regional Transit Authority	10,000	Reverse commute
Farmington, MO	City of Farmington	16,000	Rural circulation
Hartford, CT	Greater Hartford Transit District	436,000	Commute express
Laurel, MD	Maryland Department of Transportation	442,791	Local circulation
Baltimore, MD	Maryland Mass Transit Administration	48,000	Reverse commute
Norfolk, VA	Tidewater Transportation District Commission	9,450	Local circulation
Olean, New York	Saint Bonaventure University	$68,500	Local circulation
Provincetown, MA	Plymouth and Brockton Street Railway	10,000	Local circulation
Santa Rosa, FL	Santa Rosa County	90,000	Local circulation
Steamboat Springs, CO	City of Steamboat Springs	20,000	Rural circulation
West Miami, FL	City of West Miami	10,000	Local circulation
TOTAL APPROVED		$1,727,352	

PRIVATE SECTOR

SENATOR LAUTENBERG: Are there any pending 3e/8e complaints?

ANSWER: There is one pending 3e/8e complaint, Medicine Lake Bus Co. v. Metropolitan Transit Commission. The complaint alleges that the Metropolitan Transit Commission of Minneapolis, Minnesota has violated the private sector provisions of the Urban Mass Transportation Act of 1964, as amended, by bidding on and entering into a third-party service contract on a marginal cost basis. UMTA currently is investigating the dispute and hopes to render a decision within 60 days.

SENATOR LAUTENBERG: Briefly describe the status of California Bus Association v. Golden Gate Transit.

ANSWER: UMTA has closed its file on this private sector complaint under Section 3(e), since the parties have reached a settlement of their dispute.

TRANSIT TRUST FUND

SENATOR LAUTENBERG: Update the chart on page 262 of Senate report 101-285, part 1, assuming an obligation ceiling of $1.15 billion for fiscal years 1991 through 1995, this year's obligation ceiling for 1990, and at the administration's interest rate assumptions.

ANSWER: The following table provides estimated trust fund balances for the next five years under current law. Assuming an obligation limitation of $1.15 billion, the cash balance will be $7.89 billion in 1995.

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
STATUS OF MASS TRANSIT ACCOUNT
CURRENT LAW PROJECTIONS
($ in thousands)

	FY 1990 ESTIMATE	FY 1991 ESTIMATE	FY 1992 ESTIMATE	FY 1993 ESTIMATE	FY 1994 ESTIMATE	FY 1995 ESTIMATE
MASS TRANSIT ACCOUNT						
Unexpended balance brought - forward start of year.......	6,057,341	6,899,256	7,683,062	7,210,222	6,661,427	7,264,839
Cash income during year,						
Government receipts:						
Motor fuel taxes..........	1,311,000	1,345,000	1,373,000	1,402,000	1,429,000	1,455,000
Interest on investments...	507,302	534,692	547,418	477,677	408,012	417,728
Total annual income...	1,818,302	1,879,692	1,920,418	1,879,677	1,837,012	1,872,728
Less: Outlays:						
Discretionary Grants	(976,387)	(1,095,887)	(1,198,386)	(1,194,872)	(1,233,600)	(1,246,360)
Unexpended balance brought forward end of year.........	6,899,256	7,683,062	7,210,222	6,661,427	7,264,839	7,891,208
Interest rate.................	8.375%	7.750%	7.125%	6.625%	6.125%	5.750%
Authorization	1,281,800	1,400,000	1,400,000	1,400,000	1,400,000	1,400,000
Obligation Limitation	1,135,645	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000

SENATOR LAUTENBERG: Update the chart on page 265 on the trust fund status for fiscal years 1984 through 1989.

ANSWER: The information follows.

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
STATUS OF MASS TRANSIT ACCOUNT
HISTORICAL DATA
($ in thousands)

	FY 1984 ACTUAL	FY 1985 ACTUAL	FY 1986 ACTUAL	FY 1987 ACTUAL	FY 1988 ACTUAL	FY 1989 ACTUAL
MASS TRANSIT ACCOUNT						
Unexpended balance brought forward start of year.......	519,059	1,611,049	2,524,016	3,286,877	4,202,056	5,167,560
Cash income during year,						
Government receipts:						
Motor fuel taxes..........	1,236,045	1,213,740	1,112,654	1,238,858	1,277,430	1,269,420
Interest on investments...	89,141	206,226	282,769	343,855	383,750	468,869
Total annual income...	1,325,186	1,419,966	1,395,423	1,582,713	1,661,180	1,738,289
Less: Outlays:						
Discretionary Grants	(233,196)	(506,999)	(632,563)	(667,534)	(695,675)	(848,508)
Unexpended balance brought forward end of year.........	1,611,049	2,524,016	3,286,877	4,202,056	5,167,560	6,057,341
Interest rate.................	11.125%	10.750%	9.750%	8.625%	8.625%	9.125%
Authorization	1,250,000	1,100,000	1,052,700	1,097,000	1,203,200	1,250,000
Obligation Limitation	1,225,000	1,120,000	1,000,543	1,002,500	1,133,700	1,140,000

SENATOR LAUTENBERG: As of January 31. 1990. the unobligated amount of Section 3 funds was $2.2 billion ($477 million not available due to obligation limitation). If the approximately $1.7 billion were made available by appropriations. why is so much unobligated?

ANSWER: We are following an orderly process. As you know. we published the Section 9 formula apportionments in the December 19. 1989 Federal Register. In that announcement. we requested that Section 3 applications be submitted to appropriate UMTA Regional Offices by January 15. 1990 for consideration in early 1990.

The announcement stated our policy that formula funding is the primary Federal resource for transit capital assistance needs. However. critical bus and rail modernization capital projects that cannot be accommodated under the formula grant program would be considered for funding under Section 3 discretionary program.

We are now analyzing how grantees are using Section 9 funds and the applications, which greatly exceeds the supply, for Section 3 funds.

Obligations of Section 3 funds are being made after this review.

SENATOR LAUTENBERG: How much of that $1.7 billion has been made available to transit authorities. but not obligated at the local level?

ANSWER: As of today (March 29. 1990), UMTA has obligated $97.8 million of the Section 3 funds. These funds have not been drawn down by the grantees as of this date.

SENATOR LAUTENBERG: List the top ten recipients of Section 3 bus funds, and aggregate amount awarded for Fiscal Years 1983 through 1989.

ANSWER: The information is provided below:

(in millions)

Recipient	FY 1982 - 1989 Total Obligated
Los Angeles	$133.3
San Francisco	$119.3
Northeast New Jersey	$117.7
Houston	$ 91.8
Chicago	$ 83.0
New Orleans	$ 76.5
Dallas	$ 60.5
Baltimore	$ 47.7
San Juan, PR	$ 45.0
San Antonio, TX	$ 38.8

SENATOR LAUTENBERG: Update the chart on page 268 of Senate Report 101-285, part 1, on the recipients of rail modernization for Fiscal Years 1983 through 1989.

ANSWER: The information follows:

SECTION 3 DISCRETIONARY RAIL MODERNIZATION FUNDS AWARDED
(in Millions of Dollars)

URBANIZED AREA	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
Boston	70.3	24.9	69.6	13.1	51.4	16.6
New York	153.2	161.3	122.8	120.2	20.4	200.1
NE New Jersey	39.2	24.5	36.7	46.3	0	96.6
SW Connecticut	4.8	0	0	27.0	0	91.7
Philadelphia	63.7	6.0	91.3	52.5	53.6	86.8
S. New Jersey	0	0	0.6	0	21.9	0
Pittsburgh	79.0	42.8	0	3.6	0	0
Chicago	60.0	43.3	66.7	34.1	152.4	82.3
NW Indiana	0	0	0	0	0	0
Cleveland	7.7	11.3	11.3	0	16.2	0
Detroit	0	0	0	0	0	0
San Francisco	66.1	26.5	47.0	22.0	35.0	18.2
Dallas	0	0	0	0	1.2	0
Baltimore	0	0	0	0	9.8	13.5
New Orleans	0	2.4	33.0	0	2.6	1.1
Lowell, MA	0	0	0	0	0	0
Johnstown, PA	1.5	0	0	0	0	0
Chattanooga, TN	0	0	0	0	0	0
Seattle	0	0	0	0	0	0
Indianapolis	0	0	0	0	0.8	0
Wash, DC (No Va)	0	0	0	0	0.8	0
TOTALS (By Fiscal Year)	545.5	343.0	479.0	318.8	366.1	606.9

SENATOR LAUTENBERG: List the amount and percent distribution of rail modernization funds to recipients for fiscal years 1987, 1988 and 1989. Also, include the amount and percent of its Section 9 each area spent on rail modernization during this period.

ANSWER: The information follows:

UMTA OBLIGATIONS
DISCRETIONARY/FORMULA
RAIL MODERNIZATION CATEGORY
TOTAL (SECTION 3 & FORMULA) OBLIGATIONS
FY 1987 - FY 1989
(IN MILLIONS OF DOLLARS)

UZA (GRANTEE)	FY 87			FY 88			FY 89		
	SEC 3	FORM	TOTAL	SEC 3	FORM	TOTAL	SEC 3	FORM	TOTAL
BOSTON, MA (MBTA)	13.1	34.8	47.9	51.4	32.2	83.6	16.6	30.1	46.7
NEW YORK (MTA/NYCTA)	120.2	365.2	485.4	20.4	431.0	451.4	200.1	204.9	405
NE NEW JERSEY (NJT)	46.3	25.6	71.9	0	59.3	59.3	96.6	34.6	131.2
SW CONNECTICUT (CONNDOT)	27.0	1.4	28.4	0	8.0	8.0	91.7	0	91.7
PHILADELPHIA, PA (SEPTA, DRPA)	52.5	45.3	97.8	75.5	39.3	114.8	86.8	34.0	120.8
PITTSBURGH, PA (PAT)	3.6	14.6	18.2	0	2.4	2.4	0	0.6	0.6
CHICAGO, IL (CTA/CRT, NIRPC)	34.1	67.5	101.6	152.4	77.9	230.3	82.3	39.1	121.4
CLEVELAND, OH (GCRTA)	0	6.6	6.6	16.2	0.3	16.5	0	0	0
SAN FRANCISCO, CA (MUNI, BART, CALTRANS)	22.0	21.8	43.8	35.0	24.3	59.3	18.2	12.3	30.5
OTHERS	0	25.8	25.8	15.2	33.7	48.9	14.6	23.8	38.4
GRAND TOTALS	318.8	608.6	927.4	366.1	708.4	1074.5	606.9	379.4	986.3

UMTA OBLIGATIONS PERCENTAGES
DISCRETIONARY/FORMULA
RAIL MODERNIZATION CATEGORY
TOTAL (SECTION 3 & FORMULA) OBLIGATIONS
FY 1987 - FY 1989

UZA (GRANTEE)	FY 87 SEC 3	FY 87 FORM	FY 87 TOTAL	FY 88 SEC 3	FY 88 FORM	FY 88 TOTAL	FY 89 SEC 3	FY 89 FORM	FY 89 TOTAL
BOSTON, MA (MBTA)	4%	6%	5%	14%	5%	8%	3%	8%	5%
NEW YORK (MTA/NYCTA)	38%	60%	52%	6%	61%	42%	33%	54%	41%
NE NEW JERSEY (NJT)	15%	4%	8%	0%	8%	6%	16%	9%	13%
SW CONNECTICUT (CONNDOT)	8%	0%	3%	0%	1%	1%	15%	0%	9%
PHILADELPHIA, PA (SEPTA, DRPA)	16%	7%	11%	21%	6%	11%	14%	9%	12%
PITTSBURGH, PA (PAT)	1%	2%	2%	0%	0%	0%	0%	0%	0%
CHICAGO, IL (CTA/CRT, NIRPC)	11%	11%	11%	42%	11%	21%	14%	10%	12%
CLEVELAND, OH (GCRTA)	0%	1%	1%	4%	0%	2%	0%	0%	0%
SAN FRANCISCO, CA (MUNI, BART, CALTRANS)	7%	4%	5%	10%	3%	6%	3%	3%	3%
OTHERS	0%	4%	3%	4%	5%	5%	2%	6%	4%
GRAND TOTALS	100%	100%	100%	100%	100%	100%	100%	100%	100%

SENATOR LAUTENBERG: Provide a status of the projects which received new start earmarks in the fiscal year 1989 and/or 1990 report (include UMTA's cost effectiveness rating).

ANSWER: Congress earmarked funds for the following new starts projects in FY 1989 and FY 1990.

PROJECT/PHASE	Amount ($ in millions) FY 1989	FY 1990
Under Construction/Final Design		
Atlanta-East	$29.0*	$0
Atlanta-Northeast	41.0*	0
Denver-I-25/HOV	16.0*	16.0
Los Angeles-MOS-2	148.0*	140.0*
Jacksonville-ASE Ext.	7.0*	15.0
Miami - Metromover Legs	14.5	12.0
Seattle-Bus Tunnel	18.0*	0
St. Louis - Airport LRT	60.0*	67.5
Preliminary Engineering		
San Francisco - Colma	0	26.5**

Alternatives Analysis		
Atlanta-North Ext.	0	52.5
Baltimore - Central Ext. LRT	6.0***	6.0
Chicago - Central Connector LRT	0	1.0
Cleveland - Dual Hub/PE	0	2.0
Houston - System Conn.	50.0	65.0
Salt Lake City - South I-15 LRT	5.0	2.0
San Jose - Tasman LRT (PE)	0	2.0**
Other		
Portland - Breakeven	5.5	8.0
Newark - Airport (PE)	2.0*	5.0
Totals	$402.0	$420.5

* Obligated
** Assumes $2.0 million for Tasman
*** $2.5 million obligated

Projects in Atlanta (East and Northeast lines), and Seattle have been fully funded. Seattle expects to begin service for its bus tunnel in September 1990. Atlanta intends to begin service on its two projects by 1993. For the other projects listed there follows a project profile giving the project's description, status, cost-effectiveness and local financial commitment.

New Start Project Profile
(January 1990)

Project Atlanta - North Line Extension

Description

- The Metropolitan Atlanta Regional Transit Authority (MARTA) is proposing a 3.1 mile, 3 station extension of the North Line of its heavy rail rapid transit system from Medical Center to North Springs. The initial segment of the North Line from just south of the Lenox Station to Medical Center (5.7 miles) is currently in final design. It will be built by MARTA (without Federal Funds) in the median of GA 400 which is under construction by Georgia DOT.
- The 3.1 mile extension is estimated to cost $528 million (escalated $) with a Federal share of $396 million.
- Ridership for the year 2005 is estimated at 19,000 riders per day.

Status

- The request to conduct an Alternative Analysis (AA) was approved in January 1988. The project is nearing completion of the AA phase and the AA/DEIS should be circulated for review and comment in early 1990.
- The project is not ready to receive final design and construction funding, although Congress earmarked $52.1 million in FY 1990 for the project. The costs, benefits, and impacts of the project will not be known with any certainty until the AA is completed. The environmental process will probably be completed in late 1990 at the earliest.

Cost-Effectiveness

- The North Atlanta Corridor is the fastest growing portion of the Atlanta area. The North Line and its extension will connect this area with the rest of the region and provide high quality transit service for inner city residents to expanding job opportunities in the suburbs as well as service from the North to downtown.

- During the AA, the capital cost estimate for the project has increased without commensurate increases in project benefits. As presently configured, the project would attract new ridership at $8-$9 per trip. The UMTA threshold for cost-effectiveness is $6 per new transit trip.

Local Financial Commitment

- MARTA's Financial Feasibility Report suggests several possible funding scenarios with either a 75% or a 50% Federal share. A 75% Federal share would be inconsistent with the UMTA policy objective of 50% or more non-Federal funding. Under one scenario, MARTA would establish Community Improvement Districts around the three North Line extension stations to provide up to $60 million in benefit assessments toward the local share of the project cost.

- A capital financing plan has not been adopted and is, therefore, rated as "unavailable." MARTA projects revenues from the sales tax to increase at about a 9% annual rate between 1990 and 2005. However, actual annual increases have varied between 1% and 9% from 1984 to 1988 and actually declined in FY89.

- The stability and reliability of MARTA's proposed operating assistance is rated as "unacceptable." Their Financial Feasibility Report assumes a significant increase in average fares and a resultant increase in operating ratio (percent of operating costs covered by fares). The current system-wide operating ratio is 32%, but MARTA projects an increase to 48% by 2005. Current trends do not support such an increase.

Other

- MARTA has a 1% sales tax which it uses to subsidize its operations and support its construction program. Three rail extensions are under construction and two are in final design. When these segments are completed, MARTA will be operating a 44-mile rail system.

Project — Baltimore - Central LRT Extensions

Description

- The Mass Transportation Administration (MTA) of Maryland is proposing to construct, using State and local funds, a 22.5-mile light rail transit (LRT) line primarily along existing RR right-of-way from Glen Burnie in the south through the Baltimore CBD to Timonium in the north.

- The possible Federal project, or rather three projects, consists of a 4-mile extension of the LRT from Timonium to Hunt Valley and two spurs off the LRT main line to BWI Airport (1 mile) and to Penn Station (0.5 mile) in downtown Baltimore.

- The entire project was originally estimated to cost $290 million but revised estimates by the State in January 1989 put the cost at $446 million. Preliminary estimates put the total cost of the extensions at about $60 million with a Federal share of $45 million.

- Patronage data has not been developed for the extensions, but the main line is estimated to carry 20,000 daily trips by the year 2000.

Status

- The Federal projects are in the Alternatives Analysis (AA) phase of UMTA's project development process. A notice of intent to prepare an EIS for the extension to Hunt Valley was published in the Federal Register in October 1989. Notices for the two spurs are being prepared.
- Although the projects' costs and benefits will not be known until completion of the AA, Congress has earmarked $11.7 million for the project, of which $2.5 million has been obligated for AA/DEIS work.

Cost-Effectiveness

- No recent cost-effectiveness analysis has been done. A 1982 AA/DEIS for the North Corridor indicated that a double-track LRT line (the current proposal is largely single-track) would attract 40,000 riders per day with 17,000 new riders at a cost of $6 to $7 per new rider relative to a No Build alternative. Comparing the proposed single track operation to a TSM alternative would result in a higher cost per new rider.

Local Financial Commitment

- The project is a candidate for funding under the Secretary's overmatch initiative. The State has pledged $205 million from its Transportation Trust Fund and three local counties have committed $15 million each to build the 22.5-mile main line. However, no additional funding has been identified for the $160 million cost overrun. As originally proposed, a Federal share of $45 million would constitute 75% of the Federal projects, but only 16% of the entire line.
- A financial analysis of capital cost requirements will be performed as a part of the AA. Hence the capital financial plan is rated as "unavailable" at this time.
- MTA has a history of adequate funding of transit operations which includes contributions from the State Transportation Trust Fund. Hence, future operating assistance is rated "acceptable."

Project: Chicago - "Central Area Circulator" Light Rail Loop

Description

- The Chicago Central Area Circulator (CAC) project (as it has been conceived in preliminary planning work to date) would be a multi-legged light rail system within Chicago's central area, which is the second largest central business district (CBD) in the Nation with 650,000+ jobs.
- The current rapid transit system, including both the "loop" and two subways, does not directly connect the newly developing areas on the CBD's east side (e.g., in the northeast along North Michigan Avenue) with the rest of the CBD, particularly the commuter rail terminals which have an aggregate ridership of about 250,000 trips per day.
- During preliminary planning, the cost of constructing the 5.2 mile first phase of the system was estimated to be about $325 million, and ridership was estimated to be 75,000 trips per day, the majority of which would either be existing transit users or people who formerly walked.

o Most of the planned first phase of the system would be on its own right-of-way, either in the median or at the side of wide avenues or on unused rights-of-way.

Status

o Preliminary planning for a CBD circulator project has been completed after two years of work by local agencies, using UMTA, State and private funds. A range of options was examined, including LRT, a busway, an automated guideway system (AGT) and transportation system management (TSM) improvements, with the LRT and TSM options selected for further consideration.

o A formal application to begin an alternatives analysis and Draft Environmental Impact Statement was made by the City of Chicago in December 1989, and approval was given by UMTA in early January, 1990. The Congress had earmarked $1 million in FY1990 Section 3 funds for planning and preliminary engineering and directed UMTA to complete the alternatives analysis/DEIS by May 1st.

Cost-Effectiveness

o The major transportation benefit of the circulator is the provision of better access to and egress from the commuter rail stations in the Chicago CBD, connecting them to the high growth areas on the opposite side of the core.

o The information produced by preliminary planning indicated that the project warranted initiating an alternatives analysis/DEIS. Phase I of the CBD LRT circulator system would attract additional ridership at a cost of about $9.90 per trip, just under UMTA's maximum threshold of $10.00 per trip for entry into alternatives analysis/DEIS.

Local Financial Commitment

o One third of the total cost of the first phase of the system is proposed to come from the Federal government, one third from the State and one third from the private sector (and the City) by means of a tax on commercial property within a special benefits assessment district.

o A final financing plan for the CAC project is unavailable. However, the State legislature recently passed a new funding package for transit which will make $820 million available statewide for transit capital improvements over the next five years in addition to an existing $1.5 billion funding base. This package, a combination of direct funding and an increase in bonding authority, includes $20 million specifically earmarked for engineering and other "up front" costs for the CAC project. In addition, State legislation authorizing the City to establish a special benefits assessment district to fund the local/private one third share of the project is already in place.

o The stability and reliability of local operating and maintenance funding is acceptable; However, operating deficits are rising faster than dedicated sources of revenue are growing, and reductions in both bus and rail service and the closing of rail transit stations are being proposed for next year's budget. The deficit associated with the CAC project would be relatively small both in dollar terms and as a percentage of the region's total transit deficit.

Project

Cleveland - Dual Hub Corridor

Description

- This corridor contains two major employment centers, downtown Cleveland and University Circle, which are 5.6 miles apart. In 1988, there were 134,000 daily bus riders in this corridor. Cleveland's heavy rail line presently follows a circuitous route on the eastside that just touches the edge of downtown and then bypasses the busiest transit corridor on the eastside. The rail system has only one station in downtown, Tower City, which the City is currently rehabilitating with an UMTA grant. This proposal is to realign the eastside tracks through downtown and along the busy eastside corridor to University Circle.
- The alternative considered most likely to be selected as the locally preferred alternative follows Euclid Avenue in subway downtown and on surface streets outside of downtown. It has a capital cost of $568 million.
- System-wide ridership peaked in the early 1980s at over 120 million annual passengers, but has declined steadily since. In 1988 ridership was under 70 million riders. The drop in ridership has been most dramatic on the heavy rail line.

Status

- This project has been in alternatives analysis since 1983. It has progressed slowly partly because it is a joint effort of the City of Cleveland Planning Commission, the Northeast Ohio Areawide Coordinating Agency (NOACA), and the Greater Cleveland Regional Transit Authority (GCRTA). Also GCRTA apparently showed little interest in the project because of significant managerial, safety and other problems. It is now progressing. The alternatives being examined are the No-Build, a TSM alternative, and several rail re-alignments that range in cost from $292 to $774 million.
- The City of Cleveland and NOACA (the MPO) have already endorsed the Euclid rail alternative. The GCRTA Board will not take any formal action until after the public hearing on the AA/DEIS.
- The Congress earmarked $2 million of FY 1990 Section 3 funds for preliminary engineering for the project.

Cost-Effectiveness

- It is not yet known whether the relocation of the rail line will attract sufficient new riders to justify the major expense. A much lower cost bus alternative may accomplish the same objective.
- The impetus for the project is from several sources: 1) the rail system does not penetrate downtown, 2) the eastside alignment misses the best transit corridor on that side of town, and 3) dwindling ridership has left the rail system underutilized. However, because the realigned trains would operate on surface streets, existing riders to the Tower City area of downtown would be subject to longer travel times. The eastside corridor

is now well served by buses and not so congested that a train operating on the same streets would improve travel times appreciably.

- A cost-effectiveness index for the proposed action has not been determined since UMTA and the City have not agreed on the TSM baseline.

Local Financial Commitment

- GCRTA's preliminary financial plan calls for funding from UMTA (50%), the State of Ohio (10%-12%), the City of Cleveland (5%), GCRTA (25%-35%), and the private sector (10%-20%). No commitments have been made by any funding source, and state legislation is not in place to impose a special benefits assessment to facilitate private contribution to the project.
- A Capital Financing Plan for the project has not been adopted and is "unavailable." The draft plan lacks specific commitments.
- GCRTA's capital and operating expenses are supported by a 1% sales tax in Cuyahoga County. Fare-box revenues cover 26% of operating expenses. The remainder is provided by UMTA (7%), the State of Ohio (5%), and GCRTA (62%). There is a modest capital program which is 100% local, but it is clear that the sales tax revenue is committed to operating and maintaining the existing system for the most part, with little left over for new initiatives. GCRTA's operating assistance plan is considered "acceptable."

Other

- There has been strong support from certain sectors of the business community for the project.

Project Denver - North I-25 Bus/HOV Lanes

Description

- The Regional Transportation District (RTD) is proposing a two-lane reversible HOV facility in the median of I-25 from 20th Street to US-36. The project also includes rebuilding 20th Street from I-25 to downtown Denver to include reversible HOV lanes. In total, the HOV facility would be 6 miles in length.
- The project is estimated to cost $200 million, with the cost to be divided among RTD, UMTA, the Federal Highway Administration, the Colorado Department of Highways, and the City and County of Denver. The UMTA Section 3 share is $70 million, the RTD share $46 million. Section 3 funds totaling $52.4 million have been earmarked through FY1990.

Status

- The environmental assessment process concluded with approval of a "Finding of No Significant Impact" in the Spring of 1989.
- In December 1989, UMTA and RTD entered into a full funding contract. Final design had previously been proceeding under a Letter of No Prejudice.
- One unresolved issue pertains to the design of 20th Street, the connection into the Denver CBD for the HOV-way. The current design assumes that AMTRAK service will be removed from the Denver Union Terminal so that 20th Street can enter downtown at grade with no interference from Amtrak trains which currently cross the street. If the AMTRAK

relocation does not come to pass, the design would need to be revisited and, possibly, the environmental process reopened.

Cost-Effectiveness

- o The bus/HOV lanes are expected to significantly reduce travel time for transit riders and carpoolers, saving 8 to 9 minutes on average. This time savings will lead to an increase in the number of commuters usings buses and other high occupancy vehicles.
- o With a cost-effectiveness index of $4.40 per new transit/HOV trip, the project passed UMTA cost-effectiveness threshold.

Local Financial Commitment

- o The transit share of project costs is $116 million. The $46 million in RTD funds going to the project represents a 40 percent non-Federal share.
- o RTD is supported by a 0.6 percent dedicated sales tax and has built up capital reserves of some $40 million. The financial analysis showed that the local agencies will be capable of financing the capital costs of the project with no increase in taxes, assessments, or fees provided certain optimistic economic assumptions come to pass. The capital finance plan is rated "acceptable."
- o The stability and reliability of RTD's operating revenues is also rated "acceptable" based on the financial analysis. However, if some of the economic assumptions underlying the analysis do not come to pass, and if no additional resources are found, RTD could have difficulty providing the assumed level of bus service.

Project Houston - System Connector .

Description

- o The System Connector is a proposed 15-mile guideway system costing about one billion dollars, connecting downtown Houston with Greenway Plaza and Post Oak.

Status

- o In November 1989, the Metro Board voted not to construct the project, but has voted to pursue the possibility of a privately financed system if one can be shown to have more benefits or less cost than the project rejected by the Board. Expressions of interest in the project or a modification thereof have been requested by January 1990.
- o FY 1989 and 1990 unobligated earmarks for this project are $49.8 and $65 million respectively, although the costs, benefits and impacts will not be known until the AA is completed.

Cost - Effectiveness

- o The project is designed to connect Houston's major activity centers as well as several HOV facilities.

  Metro has never released the cost-effectiveness numbers to UMTA, but an analysis of the Board-rejected alternative revealed that it would attract virtually the same member of riders as a good bus system.

Local Financial Commitment

- o Houston Metro, which is supported by a 1% sales tax, has proposed that UMTA pay about 55% of the cost of the System Connector Project.

- The Houston capital financing plan is "deficient." It contains several unsupported assumptions including a very large increase in the operating ratio (percent of operating costs covered by fares)' of the bus system. Futhermore, the private sector contribution of $130 million is not well defined.

- The stability and reliability of future financing for operations is "unacceptable" because the financing plan currently being proposed would require large increases in the operating ratio for which no supporting documentation is available.

Project — Jacksonville - Automated Skyway Express (ASE) Extension

Description

- This project (phase 1-B) is an 1.8 mile extension by the Jacksonville Transportation Authority (JTA) of the 0.7 mile phase 1-A starter line of the Automated Skyway Express. The extension would consist of an elevated, double track guideway, with 6 stations, 12 vehicles and a maintenance yard. The extension consists of two segments. The northern segment extends 0.6 miles from the Central CBD Station to Florida Community College and has two stations. The southern segment extends 1.2 miles across the St. Johns River through the South Bank Business District to St. Johns Place and would include a permanent central maintenance and storage facility and four new stations.

- The estimated cost to complete the extension is $133 million (1991 $) which includes $46 million for the northern leg and $87 million for the southern leg.

- There are no current ridership projections for phase 1-B. The latest projections were done in 1983 and are outdated.

Status

- The starter line opened for revenue service in June 1989. It is averaging about 1,000 riders per day who are primarily Park-and-ride patrons and don't actually pay to use the facility. Because of the low ridership, JTA has eliminated Sunday service and changed weekday closing time to 7:30 p.m. from 9:00 p.m. The current ridership is considerably less than the initial (1990) forecast of 10,000.

- The final EIS for the 1.8 mile extension was completed in February 1983 and an environmental reassessment is being prepared. JTA has selected a consultant to do the final design work for phase 1-B.

- The Conference Report 100-957 accompanying the FY 1989 DOT Appropriation Act directed the Secretary to revise the existing full funding contract to include the 1.8 mile project. UMTA and JTA are negotiating on a contract amendment for construction funding of the north leg of the extension. Congress earmarked $14.9 million in FY 1990 for the project.

- UMTA, pursuant to Congressional direction, has transferred $7 million to FHWA for the widening of the Acosta bridge to accommodate the future construction of the Skyway Express across the St. Johns River.

Cost-Effectiveness

- The project predates UMTA's issuance of its Major Capital Investment Policy. No comprehensive cost effectiveness analysis has been done for the project.

- In 1983 JTA estimated that 1995 ridership for the 2.5 mile system would be 42,000 per day. The estimate was based on the assumption that significant new development will occur along the alignment. In recent years growth and development in downtown Jacksonville has slowed considerably. In view of this fact, the low ridership on the starter line and the low ridership on the similar Miami Metro Mover (11,000 actual vs. 40,000 projected), this estimate is unsupported.

Local Financial Commitment

- JTA is proposing the maximum Federal share (75%) resulting in a Section 3 cost of about $100 million. The proposed 25% local match would be inconsistent with the Federal policy objective of 50% or more non-Federal funding.

- The existing fare for the starter line is 25 cents with free rides for Park & Ride patrons. Originally JTA had expected to cover operating expenses from the fare box. Now, low fare revenues are being subsidized by a $500,000 grant from FLADOT.

- JTA's Capital Financing Plan is "deficient." JTA is dependent upon the City of Jacksonville and the State of Flordia for the 25% local match. Adequate local funding has not been committed to the project. JTA's 1/2 % sales tax, which when into effect in January 1989, is dedicated to retiring existing highway toll bonds. JTA has no revenue base or taxing power dedicated to transit capital.

- The existing fare for the stater line is 25 cents with free rides for Park & Ride patrons. Originally, JTA had expected to cover operating expenses from the fare box. The low fare is now being subsidized by a $500,000 grant from the FLADOT. JTA's operating assistance plan is "deficient," since they are depending on a one time only grant from the State to cover the operating deficient of the Starter line. The availability of future State subsidies is uncertain. A longer term operating assistance plan has not been developed.

Project Los Angeles - Minimum Operable Segment-2 (MOS-2)

Description

- The 17-mile, $3.8-billion Los Angeles Metro Rail Project (now called the Red Line) has been broken into "minimum operable segments" for funding purposes. The second minimum operable segment (MOS-2) consists of seven miles of heavy rail with eight stations, all in subway from MacArthur Park to Hollywood. MOS-2 extends a 4-mile, 5-station segment known as MOS-1, which is now under construction in downtown Los Angeles and is scheduled to open in late 1993. From the western terminus of MOS-1, MOS-2 proceeds west along Wilshire Boulevard to Vermont Avenue where it branches. One branch continues along Wilshire to Western Avenue; the other turns northwest to Hollywood.

- The estimated total cost of MOS-2 is $1.45 billion. The total cost of MOS-1 is $1.3 billion.

- The full 17-mile Red Line is expected to attract 300,000 daily riders. The portion of those riders attributable to MOS-2 by itself is not known.

Status

- In September 1989, UMTA issued an environmental Record of Decision stating its resolve to provide financial assistance for MOS-2 in accordance with section 338 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (the STURA Act). The STURA Act authorized $667 million in Section 3 funds for MOS-2. Of this, $330 million has been earmarked, but none has yet been obligated.

- UMTA is negotiating a Full Funding Grant Agreement (FFGA) for final design and construction of MOS-2 with the Los Angeles County Transportation Commission (LACTC), the major local funding partner. Local decisions on project management and control must be resolved before the FFGA for MOS-2 can be finalized.

Cost-Effectiveness

- Los Angeles has the highest bus ridership of any bus-only system in the country, and has the third highest transit ridership over-all. Its freeways are notoriously congested. The Wilshire Avenue corridor carries SCRTD's busiest bus lines.

- The STURA Act exempted Metro Rail from its cost-effectiveness requirement, so definitive information is unavailable. However, earlier studies suggested that the Wilshire branch is highly cost-effective. The cost-effectiveness index for MOS-2, which includes part of the Wilshire branch and the Hollywood branch, has been roughly estimated at $6, suggesting that it meets UMTA's cost-effectiveness threshold.

Local Financial Commitment

- The Federal share for MOS-1 and MOS-2 together is 50 percent. In addition, LACTC is constructing an $880 million light rail line from downtown Los Angeles to Long Beach without any Federal funds.

- California Proposition A provided a 0.5 percent sales tax in Los Angeles County dedicated to transit and reserved half of the revenue for construction of a county-wide rail system. This tax revenue is adequate to support Los Angeles' immediate rail construction plans. LACTC's financial plan for MOS-2 is "acceptable."

- The tax revenue from Proposition A is adequate to finance the operating deficits of the bus and rail systems without a deterioration in transit service. Therefore, the stability and reliability of SCRTD's operating funds is "acceptable."

Project Miami - Metromover Legs

Description

- The Metro-Dade Transit Agency will be adding two extensions to its automated guideway system, the Metromover, which circles downtown Miami. The north extension, 1.4 miles in length, would connect downtown to hotels and a shopping mall in the Omni area. The 1.1 mile south extension will connect office developments in the Brickell area with downtown.

- The two legs are estimated to cost $248 million, of which $186 million (75 percent) is to be from Section 3. Prior year earmarks (thru 1990) total $163 million, of which $115 million has been obligated.

Status

- At the direction of Congress, UMTA signed a full funding contract with the MDTA in 1989.
- Final design is underway. Several alignment changes are being contemplated, including one involving the use of parkland. Supplemental environmental studies are underway for these alignment changes.

Cost-Effectiveness

- The MDTA projects that the Metromover legs will increase transit ridership by 5200 trips per day. Some 72 percent of the new riders will be taking short trips within the downtown. Existing Metrorail riders will save, on average, 2.8 minutes per trip, while existing bus riders would experience a 0.6 minute increase in travel time.
- The cost-effectiveness index for the legs is $15.20 per new transit rider which is much higher than other new starts. Most of the new riders will be taking very short trips.

Local Financial Commitment

- State and local funding provides 25 percent of the project's capital costs. The local share is being provided by the State ($30 million), a benefit assessment district ($23 million), and the City of Miami ($7 million).
- The capital finance plan is rated "acceptable" as all capital funding is in place.
- Miami has not established a stable and reliable funding source for transit. In recent years, the area has scaled back its bus system to reduce subsidy requirements. This is one reason why ridership on the Metrorail system is no more than 20 percent of projections. The Metromover legs will increase transit subsidy requirements by $1.8 million per year.

Project Northern New Jersey - Newark Air Link

Description

- The Cities of Newark and Elizabeth have proposed an eight mile long Automated Guideway Transit (AGT) system connecting the downtowns of those two cities by way of Newark International Airport. Preliminary capital costs are about $400 million including an airport circulator.
- The original proposal assumed significant private sector financing of the project and no Federal construction funding.

Status

- In December 1989, UMTA made a two million dollar grant to support further planning work on the proposed project. The work will be divided into two phases. The first phase will consist of a detailed exploration of private sector financing possibilities and related planning and engineering. If it is found that the available private, State and local funding is not sufficient to construct and operate the proposed system, and if UMTA concurs, the second phase will be an Alternatives Analysis to support a request for Federal funding.
- In FY89 and FY90, $2 million and $5 million have been earmarked, respectively.

Cost-Effectiveness

- The primary goal of the proposed project is to attract new development to the area. It has not yet been demonstrated to the satisfaction of potential investors that this new development will occur.
- Cost-effectiveness data have not yet been developed, though earlier planning work by the NY-NJ Port Authority suggested that the project would provide little transportation benefit.

Local Financial Commitment

- The project was originally proposed to be non-Federally funded. It is not clear at this time how much Federal money will be requested. There is private sector interest in this proposed project, and some private sector funding can be expected.
- It is not clear how this project will be funded, since New Jersey Transit is having difficulty funding other major projects. A capital financing plan is "unavailable."
- New Jersey Transit is having difficulty finding sufficient local funds to operate their existing systems and may not be the operator of the proposed system. Therefore information on the stability and reliability of operating assistance is "unavailable."

Project Portland - Project Breakeven

Description

- The Tri-County Metropolitan Transportation District (Tri-Met) has requested that UMTA approve a series of grants totaling $14.7 million to fund the acquisition of land for shopping mall. The Banfield LRT line bisects the site and a new LRT station would be incorporated into the mall. Tri-Met's justification for the project is that, through a combination of lease revenues from the land and increased ridership from the development, the Banfield LRT would no longer need an operating subsidy.

Status

- Congress earmarked $5.5 million for the project in UMTA's FY 1989 appropriation and an additional $8 million in FY 1990.
- UMTA has attempted to identify those elements of the project which would be eligible for funding under Section 3(a)(1)(D) of the UMT Act. Tri-Met is assessing the impact of a substantially smaller Federal contribution on the viability of the project.
- An environmental assessment is being prepared.

Cost-Effectiveness

- There has been no cost-effectiveness analysis of this project.

Local Financial Commitment

- Portland is hoping to receive 75 percent of the cost of acquiring the shopping center site (65 acres) from Section 3. The local match is proposed to be certain work carried out by Wirmar, the shopping center developer, which would be defined at a later date. The funding plan is inconsistent with the Federal policy objective of 50 percent or more non-Federal funding.

Project St. Louis: "Metrolink" LRT to Airport

Description

- o The project called Metrolink is an 18 mile doubletrack LRT line with 20 stations and 31 vehicles. The line runs from East St. Louis across the Eads Bridge, through an existing railroad tunnel, under the St. Louis CBD along 11 miles of existing railroad track and the I-70 right of way to the Airport. An old railroad facility will be modified to serve as the yard and maintenance facility.
- o The estimated total cost of this project is $384 million of which $288 million is Section 3 funds. The local share was provided through in-kind donations of the Eads Bridge, tunnel and railroad land.
- o Opening year (1993) ridership was estimated in the FEIS to be 17,000 per day which is projected to increase to 37,000 by the year 2000 and includes 8000 new riders.

Status

- o A full funding grant agreement (FFGA) was executed in October 1988 between UMTA and the Bi-State Development Agency, the transit operator for the St. Louis Region. At that time Bi-State took over responsibility for the project for East West Gateway Coordinating Council (EWGCC), the regional Metropolitan Planning Organization (MPO), which had advanced the project through alternatives analysis and preliminary engineering phases of UMTA's project development process. The agreement provides for final design and construction of the project and identifies a federal funding schedule. As of September 30, 1989, UMTA has provided $152 million to Bi- State. Congress has appropriated $67 for FY 1990 leaving a Federal balance due under the FFGA of $69 million.
- o The project is currently in final design. Alignment changes are being considered in East St. Louis and near the airport along with modifications to the yard site. Rail car bids have been received but award has been delayed pending the outcome of a bid protest. Actual construction on some portions of the line should start in the Spring of 1990.
- o UMTA has assigned a PMO contractor to monitor project performance and attend quarterly review meetings.

Cost-Effectiveness

- o With a cost-effectiveness index of $8.95 (1986$), the project did not meet UMTA's $6.00 threshold. The project was grandfathered from the requirements of Section 3(i). A FFGA was executed in 1988 in accordance with Congressional direction.

Local Financial Commitment

- o The project's capital financing plan is marginally acceptable. The local matching share (25%) consisted of donated assets (railroad rights-of -way and land). There was no cash match. Bi-State does not have sufficient financial reserves to meet unexpected cost overruns.
- o The project operating assistance plan is marginally acceptable. Operation and routine capital puchases are supported by a 1/2% State Transportation Sales Tax. There is a concern that when the system opens in 1993, cut backs in bus service will be needed to pay for the operating deficit of the rail line. Currently fare box revenues only fund about 26% of Bi-State's operating budget.

Other

- o EWGCC expects total system wide ridership (bus and rail) to increase from 112,000 in 1985 to 160,000 in the year 2000, but UMTA considers this increase to be highly optimistic.

Project: Salt Lake City - I-15/State Street Corridor

Description

- o The Wasatch Front Regional Council is studying a dozen highway and transit alternatives for reducing traffic congestion between downtown Salt Lake City and suburban areas to the south. The alternatives consist of various combinations of four kinds of improvements: widening I-15, addition of bus/HOV lanes to I-15, expanded bus service, and the construction of an at-grade light rail line along either the Union Pacific Railroad or State and Main Streets. The study corridor is approximately 20 miles in length and contains a large percentage of the region's residential, office, and retail development.
- o Local officials are expected to select light rail and I-15 widening as the locally preferred alternative. The LRT alternative is estimated to cost $150 to 200 million.

Status

- o The alternatives analysis phase is nearing completion. The technical work has been completed and UMTA, WFRC, and FHWA staff are working out the final wording for the draft EIS. Once the draft EIS has been approved and circulated for public comment, a locally preferred alternative can be selected.

Cost-Effectiveness

- o LRT would provide much the same level of transit service as an expanded bus system. Some parts of the corridor would benefit from a slight reduction in transit travel time, other areas would experience increased transit travel time due to the need to transfer from bus to rail. Compared with the all-bus alternative, LRT is projected to increase transit ridership by about 4200 trips per day. LRT would not have a noticable effect on traffic congestion.
- o None of the fixed guideway alternatives meet UMTA's current cost-effectiveness threshold of $6 per new transit trip. With an index of $7 per new trip, the Union Pacific LRT alternative comes closest to the threshold.
- o The $7 index is reflective of a very low cost project, not one that is particularly effective. The LRT alternative assumes a bare bones design with a cost-per-mile lower than any other LRT system in North America. The cost estimate (and the cost-effectiveness index) could well increase if and when preliminary engineering is performed.

Local Financial Commitment

- o A 50 percent local match is being assumed for any transit improvements emanating from the alternatives analysis. Such a funding plan would be consistent with the Federal policy objective of 50 percent or more non-Federal funding. At this time, however, the UTA has made no formal commitment to a 50 percent local share.
- o The capital financing plan is currently "unavailable." Local officials have not yet adopted a financing plan and existing local funding sources (a 1/4 cent sales tax

dedicated to transit) cannot provide sufficient funds for a major investment. Early in 1990, the UTA is expected to ask the Utah legislature for authority to increase the dedicated sales tax to 1/2 cent.

o An "unacceptable" rating has been given to the stability and reliability of local operating funds. While the UTA's 1/4 cent sales tax is adequate for its current system, the major service expansion envisioned under the bus and LRT alternatives would require a substantial increase in operating funds. A financing plan has not been adopted, although it appears that a 1/2 cent sales tax, if sought and authorized, would meet both capital and operating needs for a LRT line and supporting bus system.

Project San Francisco - Colma Station

Description

o SamTrans proposes to build a new BART station and parking structure with 2000 spaces about 0.3 miles from the Daly City station. The Colma station would be the first BART station in San Mateo County and would relieve the parking congestion at the Daly City Station.

o The project is estimated to cost about $101 million.

Status

o In the past year the Colma AA/DEIS was completed and in November 1989, UMTA, BART and SamTrans agreed to the scope of work for Preliminary Engineering and preparation of the final EIS. Because of the modest scope of the project and the minor changes in project description between the Draft and Final EIS, the FEIS is expected to be completed quickly.

o The local funding for the Colma project has been assured by a regional agreement and the approval of all local tax increases needed to implement the financing plan. The plan calls for San Mateo County to pay $200 million to East Bay Counties to buy into BART and partially fund BART extensions in those counties in exchange for San Mateo County's fixed guideway projects getting local priority in the competition for Federal funding.

o Congress has earmarked $28.3 million in FY 1990 toward construction of the project. However, per Congressional direction MTC is expected to allocate a portion of the funds (about $2 million) toward the Tasman corridor study.

Cost-Effectiveness

o The Colma project is designed to capture additional auto trips coming north to the San Francisco CBD and to relieve the parking congestion at the Daly City Station which is currently the end of the BART line.

o The Colma project has been determined to meet UMTA's cost-effectiveness test with a cost per new rider of less than $6.00.

Local Financial Commitment

o A regional financing agreement has tied this project to other fixed guideway projects in San Francisco, Alameda and Contra Costa Counties. The regional plan calls for 100% local funding of East Bay projects and 75% UMTA funding of this project, resulting in a 30% Federal funding share of the entire region's fixed guideway projects.

- The local capital financing plan is "superior" since local funding is in place to easily generate enough capital to cover the local share of construction cost of this modest project.
- BART and SamTrans have a 1% dedicated sales tax which generates adequate revenues to operate their systems (including the modest expansion associated with the Colma Station project). The stability and reliability of operating assistance is therefore "acceptable."

Project San Jose - Tasman

Description

- Santa Clara County is studying a surface light rail transit (LRT) line from Milpitas to Sunnyvale or Mountain View by way of a portion of the Guadalupe LRT. The LRT alternatives range from 5.4 to 12.7 miles of construction.
- Capital costs range from $150 to $350 million.

Status

- The alternatives have recently been reconsidered, and the BART-extension alternatives included in the original study will no longer be examined as part of this Alternatives Analysis (AA). However, the State is continuing to study BART extensions to San Jose, and can be expected to seek Federal Funds in the future. Santa Clara County expects to circulate an AA/DEIS in the spring of 1990.
- The rescoping meetings have been held and many of the methodology reports have been approved, which should allow this AA to move along quickly, if a cost-effective alternative can be developed and agreed to.
- Congress has earmarked FY 1990 funds for the project, although its costs, benefits and impacts will not be known until the AA is completed. The exact amount, estimated at around $2 million, is to be determined by the Metropolitan Transportation Commission per Congressional direction.

Cost-Effectiveness

- The proposed project serves the work trip market between Southern Alameda County and Silicon Valley where high levels of freeway congestion currently exist.
- The rescoped alternatives barely met UMTA's cost-effectiveness threshold for entering AA, which is $10 per new transit trip. Since that analysis was based on detailed data, not much if any improvement in the cost-effectiveness indices can be expected during AA. Therefore, it is unlikely that rail alternative which meet's UMTA's $6 threshold will result from this analysis.

Local Financial Commitment

- The Federal Government is expected to pay about 50% of the capital cost of the project. By comparison, the sponsors of other projects in the Bay Area are expected to request about 30% Federal funding of their projects, primarily BART extensions.
- Although the County has a sales tax for transit it is unknown at this time if sufficient resources will be available for this project. A financing plan has not yet been submitted to UMTA, making the their capital financing plan "unavailable."

- Santa Clara Transit currently covers less than 15 percent of operating costs out of the farebox. Adding more light rail will probably reduce the operating ratio further. However, since local agencies have historically provided adequate finances for expanded operations, the operating stability and reliability is rated "acceptable."

SENATOR LAUTENBERG: Provide a brief description of the full funding contracts in existence. (Update chart on page 338 of Senate Report 101-285, part 1.)

ANSWER: The information follows:

OUTSTANDING FULL FUNDING CONTRACTS
(DOLLARS IN MILLIONS)

UZA	ISSUE DATE	FUNDING SOURCE	PROJECT DESCRIPTION	FEDERAL CONTRACT AMOUNT	FUNDING THRU FY89	FY90	FY91	FY92 AND BEYOND
PORTLAND(LOI)	03/24/82	IT	BANFIELD	$145.0	$145.0	-	-	-
		SEC. 3 NS	LRT	$92.8	$87.0	$5.8	-	-
SAN JOSE (LOI)	06/22/84	SEC. 3 NS	GUADALUPE	$205.8	$205.4	$0.4	-	-
		SEC. 9A	LRT	$6.5	$6.5	-	-	-
		SEC. 9		$45.4	$45.4	-	-	-
WASHINGTON	07/16/86	SH	METRORAIL	$1,537.6	$1,537.6	-	-	-
CHICAGO	07/28/86	IT	S.W. RAIL	$348.5	$345.7	$2.7	-	-
SAN DIEGO	11/17/86	SEC. 3 NS	EAST LRT	$20.2	$20.2	-	-	-
		SEC. 9	EXTENSION	$38.2	$33.8	$4.4	-	-
CHICAGO	09/23/88	SEC. 3 RM	200 RAIL CARS	$187.0	$150.2	$36.7	-	-
		IT		$94.4	$48.1	$37.1	$9.3	-
ST. LOUIS	10/25/88	SEC. 3 NS	METRO LINK	$287.7	$149.5	$87.0	$51.2	-
BALTIMORE	12/21/88	IT	METRO-SEC. C	$273.4	$110.5	$60.5	$58.8	$43.7
MIAMI	03/23/89	SEC. 3 NS	METRO EXT.	$186.0	$115.5	$53.5	$17.0	-
SAN JOSE	06/09/89	SEC. 3 RM	COMMUTER RAIL	$23.7	$18.2	$5.5	-	-
DENVER	12/06/89	SEC. 3 NS	I-25 BUSWAY	$70.0	-	$54.6	$15.4	-

NOTE:

-ST LOUIS' NEW START EARMARK FOR FY 1990 IS $67.0 MILLION.

-BALTIMORE'S INTERSTATE TRANSFER ALLOCATION FOR FY 1990 IS $58.5.

-MIAMI HAS $36 MILLION IN UNOBLIGATED EARMARKS.

-DENVER RECEIVED A $36.6 MILLION GRANT ON 12-6-89.

SENATOR LAUTENBERG: What full funding contracts are still being negotiated? Briefly describe them.

ANSWER: Over this past year we have entered into full funding agreements with Denver (North I-25 HOV way), Miami (Omni and Brickell extensions to Downtown People Mover) and, most recently, in Los Angeles (Metrorail MOS2). We currently are negotiating a full funding contract with Jacksonville and are focusing on the scope of an operable extension to the Automatic Skyway Express and the necessary level of Federal, State, and local funding.

SENATOR LAUTENBERG: Update the table contained on pages 307 and 308 of Senate report 101-285, regarding the "new start pipeline" table and estimated section 3 funding demand.

ANSWER: The new start pipeline table follows. It shows that the total estimated Section 3 cost to complete all 37 of these projects in the pipeline is in excess of $8 billion.

URBAN MASS TRANSPORTATION ADMINISTRATION
NEW STARTS PIPELINE
($ IN MILLIONS)

17-Apr-90
UGM-22

PHASE	CITY & PROJECT	COST-EFF INDEX(1) ($/TRIP)	TOTAL COST (FED,STA & LOC)	SEC 3 COST	OTHER FEDERAL COST	STATE/ LOCAL COST	SEC 3 OBLIGATNS TO DATE (12-6-89)	SEC 3 COST TO COMPLETE	FY 1990 & PRIOR YEAR UNOBLIGATED EARMARKS	ESTIMATED COMPLETION DATE (THIS PHASE)
UNDER CONSTRUCTION	1 ATLANTA-EAST	$5.00	$192	$135	$0	$57	$134.8	$0.0		1993
	2 ATLANTA-NORTHEAST	$5.95	$126	$81	$17	$28	$81.0	$0.0		12/92
	3 BALTIMORE-HOPKINS*	$13.71	$322	$0	$274	$48	$0.0	$0.0		1994
	4 CHICAGO-SOUTHWEST*	$6.49	$410	$0	$349	$61	$0.0	$0.0		10/92
	5 HOUSTON-NORTH I-45*	$4.94	$78	$47	$0	$31	$47.0	$0.0		1996
	6 HOUSTON-SOUTHWEST*	$4.73	$102	$62	$0	$40	$62.0	$0.0		1992
	7 LOS ANGELES - MOS-1*	$6.45	$1,350	$605	$91	$654	$605.0	$0.0		9/93
	8 SANTA CLARA-GUADELUPE*	NA	$510	$206	$52	$252	$206.0	$0.0		8/91
	9 SEATTLE-BUS TUNNEL*	$1.44	$394	$197	$0	$197	$197.0	$0.0		9/90
	SUBTOTAL		$3,484	$1,333	$783	$1,368	$1,332.8	$0.0	$0.0	
FINAL DESIGN	1 DENVER-NORTH I-25*	$4.40	$200	$70	$64	$66	$36.6	$33.4	$15.8	9/90
	2 JACKSONVILLE ASE EXT(1.8'	NA	$133	$100	$0	$33	$4.0	$96.0	$14.8	1991
	3 LOS ANGELES - MOS-2	NA	$1,446	$667	$0	$779	$0.0	$667.0	$329.7	1991
	4 MIAMI-DPM EXTENSIONS*	$15.20	$248	$186	$0	$62	$115.0	$71.0	$47.9	6/90
	5 ST. LOUIS-AIRPORT LRT*	$8.95	$384	$288	$2	$94	$152.0	$135.7	$67.0	6/90
	SUBTOTAL		$2,411	$1,311	$66	$1,034	$307.6	$1,003.1	$475.2	
PRELIMINARY ENGINEERING	1 LOS ANGELES - MOS-3	NA	$1,100	$550	$0	$550	$0.0	$550.0		1991
	2 PORTLAND-WESTSIDE	NA	$640	$480	$0	$160	$0.0	$480.0		1991
	3 SAN FRANCISCO-COLMA	$5.00	$101	$71	$4	$26	$0.0	$71.0	$26.3	1991

	4 WASHINGTON-LAST 14 MI	NA	$2.673	$2,004	$0	$668	$0.0	$2,004.4		1990-1994
	SUBTOTAL		$4,514	$3,105	$4	$1,404	$0.0	$3.105.4	$26.3	
ALTERNATIVES ANALYSIS	1 ATLANTA-NORTH EXT.	$7.85	$528	$396	$0	$132	$0.0	$396.0	$52.1	6/90
	2 BALTIMORE-CENTRAL EXT'S	NA	$60	$45	$0	$15	$2.0	$43.0	$9.2	1991
	3 BUFFALO-AMHERST	$50.00	$400	$300	$0	$100	$0.0	$300.0		1991
	4 CHICAGO-CENTRAL CONNECTOR	$9.90	$350	$117	$0	$233	$0.0	$116.7	$1.0	6/90
	5 CLEVELAND-DUAL HUB	NA	$570	$285	$0	$285	$0.0	$285.0	$2.0	9/90
	6 DALLAS-SOUTH OAK CLIFF	$8.00	$250	$125	$0	$125	$0.0	$125.0		9/90
	7 HONOLULU	VARIES	$1,300	$400	$0	$900	$5.0	$395.0		5/90
	8 HOUSTON-CONNECTOR	$5.95	$1,000	$540	$0	$460	$0.0	$540.0	$114.4	1991
	9 MINNEAPOLIS-CENTRAL(HEN)	NA	$100	$24	$0	$76	$0.0	$24.0		1991
	10 MINNEAPOLIS-CENTRAL(RAM)	NA	$250	$188	$0	$63	$0.0	$187.5		1991
	11 NEW JERSEY-WATERFRONT	$6.17	$950	$713	$0	$237	$20.0	$693.0		1991
	12 NEW YORK-QUEENS	NA	$450	$225	$0	$225	$0.0	$225.0		6/90
	13 ORANGE CO.(CA)-CENTRAL	$3.75	$120	$90	$0	$30	$0.0	$90.0		12/90
	14 PITTSBURGH-SPINE LINE	$8.00	$500	$375	$0	$125	$0.0	$375.0		12/90
	15 PORTLAND-HILLSBORO	NA	$150	$113	$0	$38	$0.0	$112.5		1991
	16 SALT LAKE CITY-SOUTH I-15	$7.00	$200	$100	$0	$100	$0.0	$100.0	$10.5	5/90
	17 SAN DIEGO-MID COAST	$7.51	$500	$375	$0	$125	$0.0	$375.0		1991
	18 SAN FRANCISCO-AIRPORT	$13.51	$560	$420	$0	$140	$0.0	$420.0		1991
	19 SAN JOSE-TASMAN	$10.00	$350	$175	$0	$175	$0.0	$175.0	$2.0	12/90
	SUBTOTAL		$8.588	$5,005	$0	$3,583	$27.0	$4.977.7	$191.2	
	TOTAL: FOUR PHASES		$18.996	$10,754	$853	$7,390	$1.667.4	$9,086.1	$692.7	

SYSTEMS PLANNING — COST OF 30 PROJECTS IN SYSTEMS PLANNING (INCLUDING NEWARK-AIRPORT) NOT YET AVAILABLE

SENATOR LAUTENBERG: Provide a breakdown covering the last three years on the utilization of Section 3 discretionary funds (page 371 of Senate report 101-285, part 1).

ANSWER: The information follows:
(In Millions of Dollars)

UZA SIZE	FY 87	FY 88	FY 89
Over One Million	$642.8	$810.2	$1,117.2
200,000 to 1 Million	3.5	7.6	38.7
50,000 to 200,000	12.2	7.5	1.6
Under 50,000	1.2	13.2	11.9

SENATOR LAUTENBERG: Provide for the record state-by-state data on contributions into the Mass Transit Account of the Highway Trust Fund over the past five years and, for the same period, how much funding from the programs financed out of that account have gone into each state.

ANSWER: The 1989 data on the contributions to the Highway Trust Fund, by State, are still being compiled by the Federal Highway Administration. These data will be provided to the Subcommittee, when they are available, under separate cover.

SENATOR LAUTENBERG: Please furnish for the record data on the distribution by size-of-place of Section 3 grants, particularly the amounts going each year into urbanized areas of less than 200,000 population and into non-urbanized areas. What efforts has UMTA taken to ensure that capital funds are available to all communities regardless of size?

ANSWER: The information follows:
(In Millions of Dollars)

UZA SIZE	FY 87	FY 88	FY 89
Over One Million	$642.8	$810.2	$1,117.2
200,000 to 1 Million	3.5	7.6	38.7
50,000 to 200,000	12.2	7.5	1.6
Under 50,000	1.2	13.2	11.9

To insure that capital funds are available to all communities, UMTA reviews the entire national demand for Section 3 funds before awarding any grants.

SENATOR LAUTENBERG: Briefly describe the Rostenkowski amendment and how it controls obligations and outlays from the transit trust fund.

ANSWER: The Rostenkowski amendment sets forth a financial safety factor to ensure the fiscal integrity of the Mass Transit Account of the Highway Trust Fund. The basic concept is that authority to obligate funds from the trust fund must be supported with tax receipts to the trust fund. Technically, the rule is that cumulative authority to spend trust fund resources cannot exceed cumulative trust fund revenues by more than the next year's anticipated revenues. Limiting spending authority in this manner ensures a solvent trust fund.

The next year limitation or safety factor is why the Rostenkowski amendment is often referred to as the "one-year rule." This is in contradistinction to the two year rule applicable to the Federal Highway Administration's trust fund (known as the Byrd Amendment).

Of course, it is important to point out that the Rostenkowski amendment limitation is not a problem for the Mass Transit Account of the Highway Trust Fund. Compared to the FY 1990 $1.3 billion in spending authority, we have almost two years of unused revenue in the bank, totalling $2.5 billion. In terms of the Rostenkowski test, we have a safety factor of $3.8 billion, or almost three year's, two years of revenue in the bank plus next year's revenue.

SENATOR LAUTENBERG: Assuming a five-year reauthorization, 1992-1996, what program level could the Mass Transit Account of the Highway Trust Fund support without violating the Rostenkowski amendment? Provide a cash status table of the Mass Transit Account for the period 1990 to 1996, for program levels of $1.5, $2.0, and $2.5 billion. At what point in time would each fail the Rostenkowski amendment?

ANSWER: As reflected in the attached Table I, assuming a five-year reauthorization, 1992-1996, the Mass Transit Account could support a program level of approximately $2.8 billion through 1996 without violating the Rostenkowski amendment.

Tables II through IV provide cash status of the Mass Transit Account for the period 1990 to 1996, for program levels of $1.5, $2.0, and $2.5 billion, respectively. Since the gas tax and interest earnings generate an annual income of approximately $1.9 billion, program levels of $1.5 and $2.0 billion could be supported through infinity. The $2.5 billion program level would fail Rostenkowski in fiscal year 2000.

TABLE 1

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
STATUS OF MASS TRANSIT ACCOUNT
$2.8 BILLION PROGRAM LEVEL
($ in thousands)

	FY 1990 ESTIMATE	FY 1991 ESTIMATE	FY 1992 ESTIMATE	FY 1993 ESTIMATE	FY 1994 ESTIMATE	FY 1995 ESTIMATE	FY 1996 ESTIMATE	FY 1997 ESTIMATE
MASS TRANSIT ACCOUNT								
Unexpended balance brought forward start of year.......	6,057,341	6,899,256	7,683,562	8,325,179	8,665,701	8,543,725	8,131,429	7,303,725
Cash income during year,								
Government receipts:								
Motor fuel taxes..........	1,311,000	1,345,000	1,373,000	1,402,000	1,429,000	1,455,000	1,483,000	1,483,000
Interest on investments...	507,302	534,692	547,454	551,543	530,774	491,264	462,678	415,582
Total annual income...	1,818,302	1,879,692	1,920,454	1,953,543	1,959,774	1,946,264	1,945,678	1,898,582
Less: Outlays:								
Discretionary Grants	(976,387)	(1,095,387)	(1,278,836)	(1,613,022)	(2,081,750)	(2,358,560)	(2,773,382)	(2,773,255)
Unexpended balance brought forward end of year.........	6,899,256	7,683,562	8,325,179	8,665,701	8,543,725	8,131,429	7,303,725	6,429,052
Interest rate.................	8.375%	7.750%	7.125%	6.625%	6.125%	5.750%	5.690%	5.690%
Authorization	1,281,800	1,400,000	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000
Unfunded authorization	(2,449,550)	(2,929,243)	(2,049,696)	(1,203,240)	(363,014)	490,722	1,345,044	2,246,462
Obligation Limitation	1,135,645	1,140,000	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000
Anticipated revenues	1,879,692	1,920,454	1,953,543	1,959,774	1,946,264	1,945,678	1,898,582	1,848,813
Difference	(4,329,243)	(4,849,696)	(4,003,240)	(3,163,014)	(2,309,278)	(1,454,956)	(553,538)	397,649
Rostentowski (1=pass, 0=fail)	PASS	PASS	PASS	PASS	PASS	PASS	PASS	FAIL

TABLE II

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
STATUS OF MASS TRANSIT ACCOUNT
$1.5 BILLION PROGRAM LEVEL
($ in thousands)

	FY 1990 ESTIMATE	FY 1991 ESTIMATE	FY 1992 ESTIMATE	FY 1993 ESTIMATE	FY 1994 ESTIMATE	FY 1995 ESTIMATE	FY 1996 ESTIMATE
MASS TRANSIT ACCOUNT							
Unexpended balance brought forward start of year.......	6,057,341	6,899,256	7,683,562	8,390,179	9,066,507	9,638,580	10,166,739
Cash income during year,							
Government receipts:							
Motor fuel taxes..........	1,311,000	1,345,000	1,373,000	1,402,000	1,429,000	1,455,000	1,483,000
Interest on investments...	507,302	534,692	547,454	555,849	555,324	554,218	578,487
Total annual income...	1,818,302	1,879,692	1,920,454	1,957,849	1,984,324	2,009,218	2,061,487
Less: Outlays:							
Discretionary Grants	(976,387)	(1,095,387)	(1,213,836)	(1,281,522)	(1,412,250)	(1,481,060)	(1,694,382)
Unexpended balance brought forward end of year.........	6,899,256	7,683,562	8,390,179	9,066,507	9,638,580	10,166,739	10,533,844
Interest rate.................	8.375%	7.750%	7.125%	6.625%	6.125%	5.750%	5.690%
Authorization	1,281,800	1,400,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Unfunded authorization	(2,449,550)	(2,929,243)	(3,349,696)	(3,807,546)	(4,291,869)	(4,801,088)	(5,362,575)
Obligation Limitation	1,135,645	1,140,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Anticipated revenues	1,879,692	1,920,454	1,957,849	1,984,324	2,009,218	2,061,487	2,082,376
Difference	(4,329,243)	(4,849,696)	(5,307,546)	(5,791,869)	(6,301,088)	(6,862,575)	(7,444,951)
Rostentowski (1=pass, 0=fail)	PASS	PASS	PASS	PASS	PASS	PASS	PASS

TABLE III

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
STATUS OF MASS TRANSIT ACCOUNT
$2.0 BILLION PROGRAM LEVEL
($ in thousands)

	FY 1990 ESTIMATE	FY 1991 ESTIMATE	FY 1992 ESTIMATE	FY 1993 ESTIMATE	FY 1994 ESTIMATE	FY 1995 ESTIMATE	FY 1996 ESTIMATE
MASS TRANSIT ACCOUNT							
Unexpended balance brought forward start of year.......	6,057,341	6,899,256	7,683,562	8,365,179	8,912,351	9,217,482	9,383,927
Cash income during year,							
Government receipts:							
Motor fuel taxes..........	1,311,000	1,345,000	1,373,000	1,402,000	1,429,000	1,455,000	1,483,000
Interest on investments...	507,302	534,692	547,454	554,193	545,881	530,005	533,945
Total annual income...	1,818,302	1,879,692	1,920,454	1,956,193	1,974,881	1,985,005	2,016,945
Less: Outlays:							
Discretionary Grants	(976,387)	(1,095,387)	(1,238,836)	(1,409,022)	(1,669,750)	(1,818,560)	(2,109,382)
Unexpended balance brought forward end of year.........	6,899,256	7,683,562	8,365,179	8,912,351	9,217,482	9,383,927	9,291,491
Interest rate..................	8.375%	7.750%	7.125%	6.625%	6.125%	5.750%	5.690%
Authorization	1,281,800	1,400,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Unfunded authorization	(2,449,550)	(2,930,243)	(2,849,696)	(2,805,890)	(2,780,771)	(2,765,776)	(2,782,722)
Obligation Limitation	1,135,645	1,140,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Anticipated revenues	1,879,692	1,920,454	1,956,193	1,974,881	1,985,005	2,016,945	2,011,686
Difference	(4,329,243)	(4,849,696)	(4,805,890)	(4,780,771)	(4,765,776)	(4,782,722)	(4,794,408)
Rostentowski (1=pass, 0=fail)	PASS	PASS	PASS	PASS	PASS	PASS	PASS

TABLE IV

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION
STATUS OF MASS TRANSIT ACCOUNT
$2.5 BILLION PROGRAM LEVEL
($ in thousands)

	FY 1990 ESTIMATE	FY 1991 ESTIMATE	FY 1992 ESTIMATE	FY 1993 ESTIMATE	FY 1994 ESTIMATE	FY 1995 ESTIMATE	FY 1996 ESTIMATE
MASS TRANSIT ACCOUNT							
Unexpended balance brought forward start of year.......	6,057,341	6,899,256	7,683,562	8,340,179	8,758,194	8,796,384	8,601,116
Cash income during year,							
Government receipts:							
Motor fuel taxes..........	1,311,000	1,345,000	1,373,000	1,402,000	1,429,000	1,455,000	1,483,000
Interest on investments...	507,302	534,692	547,454	552,537	536,439	505,792	489,403
Total annual income...	1,818,302	1,879,692	1,920,454	1,954,537	1,965,439	1,960,792	1,972,403
Less: Outlays:							
Discretionary Grants	(976,387)	(1,095,387)	(1,263,836)	(1,536,522)	(1,927,250)	(2,156,060)	(2,524,382)
Unexpended balance brought forward end of year.........	6,899,256	7,683,562	8,340,179	8,758,194	8,796,384	8,601,116	8,049,137
Interest rate..................	8.375%	7.750%	7.125%	6.625%	6.125%	5.750%	5.690%
Authorization	1,281,800	1,400,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Unfunded authorization	(2,449,550)	(2,929,243)	(2,349,696)	(1,804,233)	(1,269,673)	(730,465)	(202,868)
Obligation Limitation	1,135,645	1,140,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Anticipated revenues	1,879,692	1,920,454	1,954,537	1,965,439	1,960,792	1,972,403	1,940,996
Difference	(4,329,243)	(4,849,696)	(4,304,233)	(3,769,673)	(3,230,465)	(2,702,868)	(2,143,864)
Rostentowski (1=pass, 0=fail)	PASS	PASS	PASS	PASS	PASS	PASS	PASS

INTERSTATE TRANSFER

SENATOR LAUTENBERG: Provide the latest estimated cost to complete for the Interstate Transfer Transit Grants program.

ANSWER: The information follows:

ESTIMATED INTERSTATE SUBSTITUTE TRANSIT PROJECTS COST TO COMPLETE BEGINNING FY 1991*

STATE	WITHDRAWAL AREA	TRANSIT COST TO COMPLETE**	AVAILABLE TRANSIT FUNDS	ESTIMATED ADDITIONAL FUNDS REQUIRED TO COMPLETE SUBSTITUTE TRANSIT PROJECTS
ARIZONA	Tucson	0	0	0
CALIFORNIA	Sacramento	329,609	78,803	250,806
	San Francisco	34,014,844	6,958,110	27,056,734
COLORADO	Denver	0	0	0
CONNECTICUT	Bolton to Killingly	791,475	253,962	537,513
	Hartford-New Britain	2,514,233	855,968	1,658,265
DISTRICT OF COLUMBIA	Washington	394,000	18,729	375,271
GEORGIA	Atlanta	0	0	0
ILLINOIS	Chicago	100,750,599	57,913,750	42,836,849
INDIANA	Indianapolis	0	0	0
IOWA	Waterloo	622,020	279,967	342,053
MARYLAND	Baltimore	189,254,077	58,535,437	130,718,640
	Bowie to Millersville	0	0	0
	Washington	0	0	0
MASSACHUSETTS	Boston	15,440,545	1,718,503	13,722,042
	Fall River-Providence	0	0	0
MINNESOTA	Duluth	230,427	213,626	16,801
	Minneapolis-St. Paul	0	0	0
NEBRASKA	Omaha	0	0	0
NEW JERSEY	New York City	2,571,824	753,111	1,818,713
	New York City to Trenton	0	0	0
	Philadelphia	0	0	0
NEW YORK	Albany	62,027	17,689	44,338
	New York City	273,152,721	34,622,139	238,530,582
OHIO	Cleveland	15,309,703	2,258,907	13,050,796
OREGON	Portland	19,694,844	4,305,604	15,389,240
	Salem	0	0	0
PENNSYLVANIA	Philadelphia	0	0	0
	Pittsburgh	0	0	0
RHODE ISLAND	Rhode Island	17,213,121	4,466,789	12,746,332
TENNESSEE	Memphis	16,751,970	4,347,917	12,404,053
VIRGINIA	Washington	0	0	0
	TOTALS	689,098,037	177,599,011	511,499,026

* Amounts are in Federal funds as of September 30, 1989.

** Based on the highway/t.ansit splits used to apportion 1990 funds.

SENATOR LAUTENBERG: List the areas and amounts of unobligated balances in the Interstate Transfer Transit Grant program.

ANSWER: The information follows:

AVAIALBLE INTERSTATE TRANSFER TRANSIT FUNDS
(AS OF DECEMBER 30, 1989)

STATE	WITHDRAWAL AREA	UNOBLIGATED BALANCE ($)
California	Sacramento	78,803
	San Francisco	6,958,110
Connecticut	Bolton to Killingly	253,962
	Hartford-New Britain	855,968
District of Columbia	Washington	18,729
Illinois	Chicago	57,913,750
Iowa	Waterloo	279,967
Maryland	Baltimore	4,700,002
Massachusetts	Boston	1,718,503
Minnesota	Duluth	213,626
New Jersey	New York City	753,111
New York	New York City	34,622,139
	Albany	17,689
Ohio	Cleveland	2,258,907
Oregon	Portland	4,305,604
Rhode Island	Rhode Island	4,466,789
Tennessee	Memphis	4,347,917
	Total	123,763,576

SENATOR LAUTENBERG: Update the usage table on page 375 of Senate Hearing 101-285, part 1.

ANSWER: The information follows:

INTERSTATE TRANSFER OBLIGATIONS FOR ALL URBANIZED AREAS
BY CATEGORY
FY 1985 THROUGH FY 1989

01-Nov-89

(In Dollars)

FISCAL YEAR	BUS	RAIL MOD	NEW SYSTEMS	PLANNING	TOTAL
1985	44,169,304	63,632,195	124,336,697	299,914	232,438,110
1986	11,069,935	29,555,673	203,325,440	200,000	244,151,048
1987	13,675,742	48,048,526	135,354,578	61,475	197,140,321
1988	13,766,285	71,220,635	54,550,721	35,125	139,572,766
1989	2,980,048	118,751,983	114,447,687	947,857	237,127,575
TOTAL	85,661,314	331,209,012	632,015,123	1,544,371	1,050,429,820

SENATOR LAUTENBERG: Provide apportionment levels for the interstate transfer transit areas assuming appropriated levels of $130, $150, $175, and $200 million.

ANSWER: The information follows:

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINSITRATION
INTERSTATE TRANSFER GRANTS — TRANSIT
ALTERNATIVE FY1991 FORMULA FUNDING LEVELS

END OF FY1990 EST. ADDT'L FUNDS REQUIRED TO COMPLETE SUSTITUTE PROJECTS	UMTA INTERSTATE TOTAL ($MIL.) APPROPRIATION	- $130 M - PROJECTED FORMULA APPORTIONMENT OF $64,675,000	- $150 M - PROJECTED FORMULA APPORTIONMENT OF $74,625,000	- $175 M - PROJECTED FORMULA APPORTIONMENT OF $87,062,500	- $200 M - PROJECTED FORMULA APPORTIONMENT OF $99,500,000
13,722.042	BOSTON, MA	1,735,044	2,001,973	2,335,635	2,669,298
42,836,849	CHICAGO, IL	5,416,380	6,249,669	7,291,281	8,332,893
13,050,796	CLEVELAND, OH	1,650,170	1,904,042	2,221,382	2,538,723
16,801	DULUTH-SUPERIOR, MN	2,124	2,451	2,860	3,268
0	INDIANAPOLIS, IN	0	0	0	0
1,818,713	NEW JERSEY	229,962	265,341	309,564	353,787
250,806	SACREMENTO,CA	31,712	36,591	42,690	48,788
1,658,265	HARTFORD-NEW BRITAIN, CT	209,674	241,932	282,254	322,576
12,746,332	RHODE ISLAND	1,611,673	1,859,622	2,169,559	2,479,496
0	FALL RIVER, MA	0	0	0	0
537,513	KILLINGLY, CT	67,964	78,420	91,490	104,560
238,530,581	NEW YORK CITY, NY	30,160,302	34,800,349	40,600,407	46,400,465
44,338	ALBANY, NY	5,606	6,469	7,547	8,625
0	TRENTON, NJ	0	0	0	0
130,718,639	BALTIMORE, MD	16,528,336	19,071,157	22,249,684	25,428,210
375,271	WASHINGTON, D.C.	47,450	54,750	63,875	73,000
12,404,053	MEMPHIS, TN	1,568,394	1,809,686	2,111,300	2,412,914
342,053	WATERLOO, IA	43,250	49,904	58,221	66,538
27,056,734	SAN FRANCISCO, CA	3,421,110	3,947,434	4,605,340	5,263,246
15,389,240	PORTLAND, OR	1,945,847	2,245,209	2,619,410	2,993,612
	UNDISTRIBUTED (PMO)	325,000	375,000	437,500	500,000
511,499,026	TOTAL FORMULA	65,000,000	75,000,000	87,500,000	100,000,000
	TOTAL DISCRETIONARY	65,000,000	75,000,000	87,500,000	100,000,000
	TOTAL	130,000,000	150,000,000	175,000,000	200,000,000

NOTE: ESTIMATES BASED ON DATA AVAILABLE APRIL 3, 1990. COLUMNS MAY NOT ADD DUE TO ROUNDING. ONE-HALF OF ONE PERCENT HAS BEEN DEDUCTED FOR PRODUCTION MANAGEMENT OVERSIGHT.

NEW STARTS

SENATOR LAUTENBERG: List a description of UMTA assisted rail mileage that opened in Fiscal Years 1988 and 1989 and projected for 1990. (Include a city and segment description and the source of federal funding.)

ANSWER: The information follows:

NEW UMTA ASSISTED RAIL OPENINGS

City	Segment Description	Federal Funding Source
Atlanta, GA	North Line to Chamblee (3 miles) South Line to Airport (3 miles)	Sec 3/Sec. 9
San Jose, CA	Downtown to Old Ironsides (10 miles)	Sec 3/Sec 9
Jacksonville, FL	Convention Center to Downtown (.7 mile)	Sec 3/Sec 9
Scheduled to open in FY 1990		
Washington, DC	Red Line-Silver Spring to Wheaton (3 miles)	Stark-Harris

SENATOR LAUTENBERG: List the projects under construction that are using Federal funds.

ANSWER: The following nine new starts projects are under construction using Federal Section 3, 9 and Interstate Transfer funds.

NEW START PROJECTS UNDER CONSTRUCTION (In millions of dollars)

City/Project	Total Cost	Federal Cost	Estimated Completion
Atlanta - East Line	$192	$135	1993
- Northeast	126	98	12/92
Baltimore - Section C	322	274*	1994
Chicago - Southwest	410	343*	10/92
Houston - North/HOV	76	47	1996
- Southwest/HOV	102	62	1992

Los Angeles - MOS-1	1,350	696	9/93
Santa Clara - South Guadelupe	510	258	8/91
Seattle - Bus Tunnel	394	197	9/90

*Interstate Transfer Funds

BALANCES AVAILABLE

SENATOR LAUNTENBERG: Update the table on page 360 through 367 of the Senate Hearing 101-285, part 1, that report on the unobligated balances in the UMTA program catagories.

ANSWER: UMTA's unobligated balances as of February 28, 1990 are as follows:

U. S. Department of Transportation
Urban Mass Transportation Administration
Status of Program Funds Report
Summary as of February 28,1990

	Unobligated Balance 9-30-89	FY 1990 Undistributed Recoveries	New FY 1990 Budget Authority	FY 1990 Recoveries Thru 2/28/90	Lapses/ Write-offs to [illegible]	Interagency Interoffice Transfers	Total FY 1990 Availability	Less: Obligations Thru 2/28/90	Unobligated Balance Thru 2/28/90
DISCRETIONARY GRANTS									
Section 3, Bus	$70,033,707.00	$0.00	$131,441,900.00	$2,306,455.46	($1,909,540.30)	($296,907.16)	$201,575,615.00	$9,127,673.00	$192,348,222.00
Section 3, Rail	150,089,969.00	0.00	420,550,400.00	0.00	0.00	0.00	570,640,469.00	27,122,800.00	543,517,669.00
Section 3, New Systems	313,433,430.00	0.00	417,102,307.00	1,000,000.00	0.00	(1,000,000.00)	730,565,737.00	18,556,309.00	712,009,428.00
Section 3, Project Management Oversight	2,181,195.00	0.00	4,910,225.00	0.00	0.00	0.00	7,091,420.00	0.00	7,091,420.00
Subtotal, Section 3	$565,738,321.00	$0.00	$983,043,000.00	$3,306,455.46	($1,909,540.30)	($1,296,907.16)	$1,537,773,321.00	$74,806,782.00	$1,463,366,509.00
Section 3, Technology Introduction	0.00	0.00	0.00	3,017.00	0.00	0.00	3,017.00	0.00	3,017.00
Section 4i, Innovative Techniques	0.00	0.00	0.00	950.95	0.00	0.00	950.95	0.00	950.95
Section 18(b), RTAP	10,313.00	(10,313.00)	0.00	195.09	0.00	0.00	195.09	0.00	195.09
Section 18(b), RTAP Reapportioned as FY 90	0.00	10,313.00	0.00	0.00	0.00	0.00	10,313.00	0.00	10,313.00
Section 18, Nonurban Formula	3,280.53	(3,280.53)	0.00	100.00	0.00	0.00	100.00	0.00	100.00
Section 18, Nonurban Formula, Reapportioned as FY 90	0.00	3,280.53	0.00	0.00	0.00	0.00	3,280.53	0.00	3,280.53
Section 8, Planning Special Studies	1,960,515.39	0.00	3,991,500.00	344,700.79	(57,500.00)	495,000.00	6,733,095.18	2,047,493.00	4,685,602.18
Section 8, Planning MPO and State Grants	0.00	0.00	60,370,500.00	0.00	0.00	0.00	60,370,500.00	0.00	60,370,500.00
Section 16b2, Elderly and Handicapped	107,667.09	0.00	34,310,000.00	19,467.03	0.00	277,353.31	35,003,087.00	8,291,165.00	26,510,322.00
University Transportation Centers	0.00	0.00	4,930,000.00	0.00	0.00	55,000.00	4,985,000.00	0.00	4,985,000.00
Bus Testing Facility	1,311.00	0.00	0.00	0.00	0.00	0.00	1,311.00	0.00	1,311.00
Section 9B Block	30,701,069.00	0.00	63,790,000.00	344,752.00	0.00	(15,520.00)	94,800,011.00	28,737,311.00	66,063,100.00
Section 9B Block - transferred to sec. 18	0.00	0.00	0.00	0.00	0.00	15,520.00	15,520.00	0.00	15,520.00
Section 9A, Urban Formula	0.00	0.00	0.00	253,251.60	0.00	(253,251.60)	0.00	0.00	0.00
Section 16, Electric Bus Tech. Reimbursable	305,638.00	0.00	0.00	0.00	0.00	0.00	305,638.00	305,638.00	0.00
[illegible]	570.87	0.00	0.00	22,100.45	0.00	0.00	22,671.32	22,045.00	626.32
Undistributed	75,738,673.24	0.00	0.00	0.00	0.00	702,006.25	76,440,679.49	0.00	76,440,679.49
Obligation Limitation (Unavailable)	331,157,000.00	0.00	164,355,000.00	0.00	0.00	0.00	495,512,000.00	0.00	495,512,000.00
Total, Discretionary Grants	$985,600,576.23	$0.00	$1,300,000,000.00	$4,161,180.77	($1,977,440.04)	$0.00	$2,287,874,267.96	$110,605,971.00	$2,177,064,286.96
RESEARCH, TRAINING, AND HUMAN RESOURCES									
Undistributed	437,610.92	0.00	7,777,000.00	977,640.93	0.00	(303,603.00)	8,888,648.85	0.00	8,888,648.85
Section 6, Research and Development([illegible])	$1,113,612.29	$0.00	$0.00	$0.00	$0.00	$0.00	$1,113,612.29	$50,000.00	$1,063,612.29
Section 6, Research and Development([illegible])	16,604.00	0.00	0.00	0.00	0.00	303,603.00	320,207.00	320,207.00	0.00
Section 6, Research and Development([illegible])	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 6, Research and Development([illegible])	510,417.00	0.00	0.00	0.00	0.00	0.00	510,417.00	123,410.00	387,007.00
Section 10, Managerial Training	901,167.12	0.00	399,000.00	127,430.15	0.00	0.00	1,427,597.27	15,000.00	1,412,597.27
Section 11, University Research	26,486.26	0.00	590,000.00	13,274.28	0.00	0.00	629,760.54	0.00	629,760.54
Section 20, Human Resources	766,005.73	0.00	1,136,050.00	65,378.06	0.00	0.00	1,967,433.79	139,033.00	1,828,400.79
Reimbursable Authority	250,100.00	0.00	0.00	60.37	0.00	0.00	250,160.37	0.00	250,160.37
Total, Research, Train. & Human Resources	$4,141,300.43	$0.00	$9,970,000.00	$1,183,964.39	$0.00	$0.00	$15,297,355.01	$647,650.00	$14,649,705.01

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	Unobligated Balance 9-30-89	FY 1990 Redistributed Recoveries	New FY 1990 Budget Authority	FY 1990 Recoveries Thru 2/28/90	Lapses/ Write-offs to UMTA	Interagency Interoffice Transfers	Total FY 1990 Availability	Less: Obligations Thru 2/28/90	Unobligated Balance Thru 2/28/90
INTERSTATE TRANSFER GRANTS-TRANSIT									
Construction Grants	$18,951,519.59	$0.00	$158,722,400.00	$117,076.60	$0.00	$0.00	$177,790,996.19	$53,835,635.00	$123,955,361.19
Project Management Oversight	1,410,293.00	0.00	797,600.00	0.00	0.00	0.00	2,207,893.00	190,253.00	2,017,640.00
Total, Interstate Transfer Grants	$20,361,812.59	$0.00	$159,520,000.00	$117,076.60	$0.00	$0.00	$179,998,889.19	$54,025,888.00	$125,973,001.19
WASHINGTON METRO									
Washington Metro - Construction	$43,140,000.00	$0.00	$84,321,275.00	$0.00	$0.00	$0.00	$127,461,275.00	$0.00	$127,461,275.00
Project Management Oversight	43,567.00	0.00	423,725.00	0.00	0.00	0.00	467,292.00	0.00	467,292.00
Total, Washington Metrorail	$43,183,567.00	$0.00	$84,745,000.00	$0.00	$0.00	$0.00	$127,928,567.00	$0.00	$127,928,567.00
FORMULA GRANTS									
Section 3, Urban Formula	$4,915,033.50	($4,915,033.50)	$0.00	$4,074,530.52	$0.00	$0.00	$4,074,530.52	$0.00	$4,074,530.52
Section 9, Urban Formula	$420,963,295.60	$5,145,566.23	$1,546,468,100.00	$37,920,569.94	$0.00	($10,409,366.00)	$2,000,088,165.77	$689,215,951.00	$1,310,872,214.77
Section 9, Urban Formula-Discretionary	137,103.00	0.00	0.00	0.00	0.00	0.00	137,103.00	0.00	137,103.00
Section 9, Project Management Oversight	13,056,403.00	(230,532.00)	8,121,900.00	0.00	0.00	0.00	20,947,771.00	109,527.00	20,838,244.00
Section 9, Urban Formula (UTS)	0.00	0.00	0.00	0.00	0.00	10,000,000.00	10,000,000.00	0.00	10,000,000.00
Section 18, Nonurban Formula trans. to 9 (TT)	444,228.00	0.00	0.00	0.00	0.00	0.00	444,228.00	444,228.00	0.00
Undist. Sec. 9, Available for Reappt. in FY 90	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Subtotal, Section 9	$434,601,029.60	$4,915,034.23	$1,554,590,000.00	$37,920,569.94	$0.00	($409,366.00)	2,031,617,267.77	689,769,706.00	$1,341,847,561.77
Section 18, STAP	1,211,920.00	0.00	4,985,000.00	0.00	0.00	0.00	$6,196,920.00	819,576.00	$5,377,344.00
Section 18, Nonurban Formula	$12,245,030.84	$0.00	$65,535,000.00	$2,337,522.72	$0.00	$0.00	$80,117,553.56	$10,676,696.00	$69,440,857.56
Section 18, Project Management Oversight	333,196.00	0.00	0.00	0.00	0.00	0.00	333,196.00	0.00	333,196.00
Section 9, Urban Formula trans. to 18 (C&)	267.73	(0.73)	0.00	65,062.21	0.00	3,087.00	68,416.21	0.00	68,416.21
Section 9, Urban Formula trans. to 18 (OO)	6,855.00	0.00	0.00	0.00	0.00	406,279.00	413,134.00	25,186.00	387,948.00
Subtotal, Section 18	$13,797,269.57	($0.73)	$70,520,000.00	$2,402,584.93	$0.00	$409,366.00	$87,129,219.77	$11,521,458.00	$75,607,761.77
Commuter Rail	$136,890.11	$0.00	$0.00	$0.00	$0.00	$0.00	$136,890.11	$0.00	$136,890.11
Commuter Rail Operating Subsidies	3,370.00	0.00	0.00	0.00	0.00	0.00	3,370.00	0.00	3,370.00
Unrestricted Cash	779,987.91	0.00	0.00	0.00	0.00	0.00	779,987.91	0.00	779,987.91
FHWA - Federal Aid Systems	1,230,308.15	0.00	0.00	257,831.90	0.00	0.00	1,488,140.05	0.00	1,488,140.05
Total, Formula Grants	$455,453,702.84	($0.00)	$1,625,110,000.00	$44,655,695.29	$0.00	$0.00	2,125,219,190.13	$701,303,972.00	1,423,915,218.13
UMTA PROGRAM FUNDS TOTAL	$1,506,031,309.21	($0.00)	$3,179,345,000.00	$50,119,677.09	($1,977,449.04)	$0.00	$4,736,318,677.29	$1,065,866,681.00	3,670,451,996.29

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	Unobligated Balance 9-30-89	FY 1990 Redistributed Recoveries	New FY 1990 Budget Authority	FY 1990 Recoveries Thru 2/28/90	Lapses/ Write-offs to M/TA	Interagency Intraoffice Transfers	Total FY 1990 Availability	Less: Obligations Thru 2/28/90	Unobligated Balance Thru 2/28/90
[illegible] (69X1136 - 14)	$536.87	$0.00	$0.00	$21,134.46	$0.00	$0.00	$21,671.33	$21,045.00	$626.33
RESEARCH, TRAINING, AND HUMAN RESOURCES (69X1121 - 11)									
Research and Development(Undistributed)	$552,955.29	$0.00	$7,777,000.00	$782,495.63	$0.00	($203,403.00)	$8,909,047.92	$0.00	$8,909,047.92
Section 6, Research and Development(UTS)	1,112,612.29	0.00	0.00	0.00	0.00	0.00	1,112,612.29	50,000.00	1,062,612.29
Section 6, Research and Development(BAP)	16,684.00	0.00	0.00	0.00	0.00	203,403.00	220,087.00	220,087.00	0.00
Section 6, Research and Development(UC2)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 6, Research and Development(UC3)	330,417.00	0.00	0.00	0.00	0.00	0.00	330,417.00	123,410.00	207,007.00
Section 10, Managerial Training	901,156.42	0.00	399,000.00	137,430.85	0.00	0.00	1,437,587.27	25,000.00	1,412,587.27
Section 11, University Research	0.00	0.00	598,000.00	15,274.28	0.00	0.00	613,274.28	0.00	613,274.28
Section 20, Human Resources	786,006.73	0.00	1,196,000.00	65,577.06	0.00	0.00	1,967,583.79	130,433.00	1,837,150.79
Total Research	$3,799,760.73	$0.00	$9,970,000.00	$990,770.53	$0.00	$0.00	$14,760,530.55	$547,450.00	$14,213,080.55
Reimbursable Authority	250,000.00 1/	0.00	0.00	30.27	0.00	0.00	250,030.27	0.00	250,030.27 2/
Total Research, Train. & Human Resources	$4,049,760.73	$0.00	$9,970,000.00	$990,800.80	$0.00	$0.00	$15,010,560.82	$547,450.00	$14,463,110.82
INTERSTATE TRANSFER GRANTS-TRANSIT (69X1127 - 13)									
FHWA - Federal Aid Systems	$74,896.86	$0.00	$0.00	$57,406.73	$0.00	$0.00	$132,303.59	$0.00	$132,303.59
Construction Grants - (1982 & Prior)	142,702.90	0.00	0.00	59,500.15	0.00	(142,702.90)	59,500.15	0.00	59,500.15
Construction Grants - (1983)	0.00	0.00	0.00	0.02	0.00	(0.02)	0.00	0.00	
Construction Grants - (1984)	6.64	0.00	0.00	0.00	0.00	(6.64)	0.00	0.00	0.00
Construction Grants - (1985)	3,961.46	0.00	0.00	0.00	0.00	(3,961.46)	0.00	0.00	0.00
Construction Grants - (1987)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Construction Grants - (1988)	13,104,301.58	0.00	0.00	0.00	0.00	146,671.02	13,250,972.60	0.00	13,250,972.60
Construction Grants - (1990)	0.00	0.00	150,722,000.00	0.00	0.00	0.00	150,722,000.00	40,209,875.00	110,512,125.00
Project Management Oversight (1988)	418,253.00	0.00	0.00	0.00	0.00	0.00	418,253.00	198,253.00	220,000.00
Project Management Oversight (1989)	1,000,000.00	0.00	0.00	0.00	0.00	0.00	1,000,000.00	0.00	1,000,000.00
Project Management Oversight (1990)	0.00	0.00	797,500.00	0.00	0.00	0.00	797,500.00	0.00	797,500.00
Total Interstate -Transit	$14,738,233.44	$0.00	$151,519,500.00	$117,015.46	$0.00	$0.00	$166,373,320.04	$40,408,128.00	$125,973,201.04
WASHINGTON METRO (69X1128 - 18)									
Washington Metro - Construction	$43,180,000.00	$0.00	$94,281,375.00	$0.00	$0.00	$0.00	$137,461,375.00	$0.00	$137,461,375.00
Project Management Oversight (1989)	43,567.00	0.00	0.00	0.00	0.00	0.00	43,567.00	0.00	43,567.00
Project Management Oversight (1990)	0.00	0.00	423,725.00	0.00	0.00	0.00	423,725.00	0.00	423,725.00
Total, Washington Metro	$43,223,567.00	$0.00	$94,705,100.00	$0.00	$0.00	$0.00	$137,928,667.00	$0.00	$137,928,667.00

1/ Includes 6,750 Managerial Training Reimbursement
2/ Please note: These funds are available for Section 6 obligations.

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	Unobligated Balance 9-30-89	FY 1990 Redistributed Recoveries	New FY 1990 Budget Authority	FY 1990 Recoveries Thru 2/28/90	Lapses/ Write-offs to UMTA	Interagency Intraoffice Transfers	Total FY 1990 Availability	Less: Obligations Thru 2/28/90	Unobligated Balance Thru 2/28/90
FORMULA GRANTS									
69X1119 - (10)									
FHWA - Federal Aid Systems	$1,230,301.15	$0.00	$0.00	$257,831.50	$0.00	$0.00	$1,488,132.65	$0.00	$1,488,132.65
Section 3 - Discretionary	0.00	0.00	0.00	1,909,540.38	(1,909,540.38)	0.00	0.00	0.00	0.00
Section 5 - Formula	1,415,506.41	(1,415,506.41)	0.00	259,150.00	0.00	0.00	259,150.00	0.00	259,150.00 1/
Section 6 - Research	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 8 - Planning	0.00	0.00	0.00	17,900.00	(17,900.00)	0.00	0.00	0.00	0.00
Section 10 - Managerial Training	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 11 - University Research	36,606.26	0.00	0.00	0.00	0.00	0.00	36,606.26	0.00	36,606.26
Section 16b2 - Elderly & Handicapped	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Commuter Rail Operating Subsidies	3,370.00	0.00	0.00	0.00	0.00	0.00	3,370.00	0.00	3,370.00
Interstate Grants - Construction	5,635,560.15	0.00	0.00	0.00	0.00	0.00	5,635,560.15	5,635,560.00	0.15
Commuter Rail	136,696.11	0.00	0.00	0.00	0.00	0.00	136,696.11	0.00	136,696.11
Unrestricted Cash	779,907.91	0.00	0.00	0.00	0.00	0.00	779,907.91	0.00	779,907.91
Undistributed - Sections 6, 10 and 11	64,463.63	0.00	0.00	195,145.30	0.00	0.00	259,608.93	0.00	259,608.93
Subtotal, 69X1119	$9,302,566.63	($1,415,506.41)	$0.00	$2,639,567.18	($1,927,440.38)	$0.00	$8,379,009.49	$5,635,560.00	$2,953,449.49
69X1123 - (12)									
Section 18 - Nonurban Formula	$363,638.03	($363,638.03)	$0.00	$1,343,659.07	$0.00	$0.00	$1,343,659.07	$0.00	$1,343,659.07 2/
Section 18 - Nonurban Formula, Unapportioned FY 90	0.00	$363,638.03	0.00	0.00	0.00	0.00	$363,638.03	0.00	$363,638.03
Subtotal, 69X1123	363,638.03	0.00	0.00	1,343,659.07	0.00	0.00	$1,707,297.10	0.00	$1,707,297.10
69X1126 - (13)									
Section 5 - Urban Formula	$3,499,647.09	($3,499,647.09)	$0.00	$3,015,374.44	$0.00	$0.00	$3,015,374.44	$0.00	$3,015,374.44 1/
69X1129 - (21)									
Section 9 - Urban Formula (1984)	$2,017,568.37	($2,017,568.37)	$0.00	$253,908.90	$0.00	$0.00	$253,908.90	$0.00	$253,908.90
Section 9 - Urban Formula (1985)	1,964,975.38	(1,964,975.38)	0.00	636,325.31	0.00	0.00	636,325.31	0.00	636,325.31
Section 9 - Urban Formula (1986)	56,155.38	(56,155.38)	0.00	274,657.00	0.00	0.00	274,657.00	0.00	274,657.00
Section 9 - Urban Formula (1987)	66,794,521.49	0.00	0.00	11,395,446.90	0.00	(13,663.00)	78,176,305.39	11,408,356.00	66,767,949.39
Section 9 - Urban Formula (1988)	135,556,004.48	0.00	0.00	4,114,329.43	0.00	(316,356.00)	139,353,977.91	30,714,994.00	108,638,983.91
Section 9 - Urban Formula (1989)	252,771,461.00	0.00	0.00	1,301,210.00	0.00	(57,435.00)	254,015,236.00	52,457,465.00	201,557,771.00
Section 9 - Urban Formula (1990)	0.00	9,955,655.38	1,546,456,669.98	0.00	0.00	(15,965,315.00)	1,540,447,010.36	585,465,776.00	954,981,234.36
Section 9 - Discretionary (1984)	137,103.00	0.00	0.00	0.00	0.00	0.00	137,103.00	0.00	137,103.00
Section 9 - Urban Formula (1990) UTE	0.00	0.00	0.00	0.00	0.00	18,000,000.00	18,000,000.00	0.00	18,000,000.00
Project Management Oversight (1988)	4,587,889.00	0.00	0.00	0.00	0.00	0.00	4,587,889.00	109,547.00	4,478,342.00
Project Management Oversight (1989)	4,017,953.00	0.00	0.00	0.00	0.00	0.00	4,017,953.00	0.00	4,017,953.00
Project Management Oversight (1990)	0.00	0.00	4,131,900.00	0.00	0.00	0.00	4,131,900.00	0.00	4,131,900.00
Project Management Oversight (Recoveries)	220,532.00	(220,532.00)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 16 to 90 (TE) (1988)	300,000.00	0.00	0.00	0.00	0.00	0.00	300,000.00	300,000.00	0.00
Section 16 to 90 (TE) (1989)	344,220.00	0.00	0.00	0.00	0.00	0.00	344,220.00	344,220.00	0.00
Section 16 to 90 (TE) (1990)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Subtotal, Section 9	$434,606,629.44	$6,915,034.35	$1,551,109,000.00	$37,930,507.94	$0.00	($669,354.00)	$2,031,617,367.77	$645,703,966.00	$1,385,913,401.77

1/ All Section 5 funds lapse to [illegible] at EOY and the unobligated balances and prior year recoveries "shall be added to amounts available for apportionment under Section 9..."
2/ All Section 18 funds under this appropriation lapse to status at EOY and prior year recoveries shall be added to amounts available for apportionment under Sec. 18 of the current FY.

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6981129 - (31) Continued:

	Unobligated Balance 9-30-89	FY 1990 Undistributed Recoveries	New FY 1990 Budget Authority	FY 1990 Recoveries Thru 2/28/90	Lapses/ Write-offs to [illegible]	Interagency Intraoffice Transfers	Total FY 1990 Availability	Less: Obligations Thru 2/28/90	Unobligated Balance Thru 2/28/90
Section 18 - Nonurban Formula (1984)	$36,904.20	($36,904.30)	$0.00	$571,550.22	$0.00	$0.00	$571,990.22	$0.00	$571,990.22
Section 18 - Nonurban Formula (1985)	21,134.33	(21,134.33)	0.00	7,552.66	0.00	0.00	7,552.66	0.00	7,552.66
Section 18 - Nonurban Formula (1986)	8,647.35	(8,647.35)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 18 - Nonurban Formula (1987)	3.42	(3.42)	0.00	15,701.67	0.00	0.00	15,701.67	0.00	15,701.67
Section 18 - Nonurban Formula (1988)	1,424,604.41	0.00	0.00	377,073.62	0.00	0.00	1,801,678.03	10,648.00	1,791,030.03
Section 18 - Nonurban Formula (1989)	18,491,209.00	0.00	0.00	20,145.00	0.00	0.00	18,511,354.00	11,404,576.00	7,106,778.00
Section 18 - Nonurban Formula (1990)	0.00	66,509.00	65,535,000.00	0.00	0.00	0.00	65,601,509.00	7,253,272.00	58,348,237.00
Project Management Oversight (1988)	323,194.00	0.00	0.00	0.00	0.00	0.00	323,194.00	0.00	323,194.00
Section 9B to 18 (CS) (1984)	0.00	0.00	0.00	65,065.97	0.00	0.00	65,065.97	0.00	65,065.97
Section 9B to 18 (CS) (1985)	0.00	0.00	0.00	0.24	0.00	0.00	0.24	0.00	0.24
Section 9B to 18 (CS) (1986)	0.73	(0.73)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 9B to 18 (CS) (1987)	0.00	0.00	0.00	0.00	0.00	2,434.00	2,434.00	0.00	2,434.00
Section 9B to 18 (CS) (1988)	0.00	0.00	0.00	0.00	0.00	653.00	653.00	0.00	653.00
Section 9B to 18 (CS) (1989)	357.00	0.00	0.00	0.00	0.00	0.00	357.00	0.00	357.00
Section 9B to 18 (CS) (1990)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 9B to 18 (OS) (1986)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Section 9B to 18 (OS) (1987)	0.00	0.00	0.00	0.00	0.00	15,030.00	15,030.00	0.00	15,030.00
Section 9B to 18 (OS) (1988)	6,035.00	0.00	0.00	0.00	0.00	316,603.00	322,638.00	26,146.00	296,492.00
Section 9B to 18 (OS) (1989)	0.00	0.00	0.00	0.00	0.00	67,023.00	67,023.00	0.00	67,023.00
Section 9B to 18 (OS) (1990)	0.00	0.00	0.00	0.00	0.00	5,745.00	5,745.00	0.00	5,745.00
Subtotal, Section 18	$13,312,719.54	($0.73)	$65,535,000.00	$1,060,128.46	$0.00	$409,306.00	$79,317,208.23	$18,693,683.00	$60,623,525.23
STAF Section 18	$1,211,938.00	$0.00	$4,905,000.00	$0.00	$0.00	$0.00	$6,116,938.00	$819,394.00	$5,297,544.00
Total, 6981129	$444,125,677.14	$4,815,633.24	$1,635,116,000.00	$30,[illegible],675.30	$0.00	$0.00	$2,117,131,306.63	$701,283,872.00	$1,415,846,414.63
Total, Formula	$461,170,213.00	($0.00)	$1,635,116,000.00	$46,530,405.53	($2,977,449.00)	$0.00	$2,131,130,053.47	$706,906,537.00	$1,424,223,333.47

Date UZA availability of Formula Funds:

Section 9A (1987) Lapse to UZAs SOY 1990
Section 9A (1988) Lapse to UZAs SOY 1991
Section 9A (1989) Lapse to UZAs SOY 1992
Section 9A (1990) Lapse to UZAs SOY 1993
Section 18 (1988) Lapse to UZAs SOY 1990
Section 18 (1989) Lapse to UZAs SOY 1991
Section 18 (1990) Lapse to UZAs SOY 1992

Urban Mass Transportation Administration
Status of Program Funds Report
Detail as of February 28, 1990

	Unobligated Balance 9-30-89	FY 1990 Undistributed Recoveries	Rev. FY 1990 Budget Authority	FY 1990 Recoveries Thru 2/28/90	Lapsed/ Write-offs to [illegible]	Interagency Intermodal Transfers	Total FY 1990 Availability	Less: Obligations Thru 2/28/90	Unobligated Balance Thru 2/28/90
DISCRETIONARY GRANTS (TRUST FUND 69X8191) - (37)									
Section 3 - Bus	$70,433,307.00	$0.00	$131,441,000.00	$236,907.16	$0.00	($236,907.16)	$201,875,435.00	$9,137,473.00	$192,736,232.00
Section 3 - Rail	150,089,909.00	0.00	420,550,419.00	0.00	0.00	0.00	$570,640,000.00	27,123,000.00	$551,517,409.00
Section 3 - New Systems	333,433,138.00	0.00	417,163,587.00	1,000,000.00	0.00	(1,000,000.00)	$750,363,737.00	38,356,249.00	$712,007,488.00
Project Management Oversight	$3,101,195.00	$0.00	4,550,225.00	0.00	$0.00	0.00	$7,651,420.00	0.00	$7,651,420.00
Total - Bus, Rail, New Systems & PMO	555,738,331.00	0.00	983,685,000.00	1,236,907.16	0.00	(1,236,907.16)	1,539,681,905.00	74,606,722.00	1,463,965,109.00
Section 3 - Technology Introduction	0.00	0.00	0.00	3,017.00	0.00	0.00	3,017.00	0.00	3,017.00
Section 41 - Innovative Techniques	0.00	0.00	0.00	950.95	0.00	0.00	950.95	0.00	950.95
Section 8 - Special Studies	$709,159.23	$0.00	$3,995,500.00	305,616.71	$0.00	$695,000.00	$5,605,274.97	1,047,493.00	$4,558,781.97
Planning MPO and State Grants	1,253,356.36	0.00	40,378,500.00	71,354.25	0.00	0.00	41,703,210.61	0.00	41,703,210.61
Subtotal, Section 8	1,962,515.59	0.00	44,374,000.00	376,970.96	0.00	695,000.00	47,308,485.55	1,047,493.00	46,260,992.55
Section 9B - Sled (1988)	5,394,621.00	0.00	0.00	184,762.00	0.00	0.00	5,579,383.00	1,447,983.00	4,131,400.00
Section 9B - Sled (1989)	13,636,446.00	0.00	0.00	0.00	0.00	0.00	13,636,446.00	2,239,000.00	11,397,446.00
Section 9B - Sled (1990)	0.00	0.00	69,790,000.00	0.00	0.00	(15,830.00)	69,774,170.00	20,931,131.00	48,843,039.00
Subtotal, Section 9B Sled	19,031,067.00	0.00	69,790,000.00	184,762.00	0.00	(15,830.00)	88,989,999.00	24,737,912.00	64,252,087.00
Section [illegible] - Res. & Devel.	107,097.00	0.00	34,310,000.00	97,687.00	0.00	297,183.81	34,803,967.81	6,196,166.00	28,316,122.00
Section 9B - Sled (1990) transferred to sec. 3	0.00	0.00	0.00	0.00	0.00	15,830.00	15,830.00	0.00	15,830.00
Section 18(h), RTAP	$10,313.00	($10,313.00)	0.00	$195.00	$0.00	$0.00	$195.00	0.00	$195.00
Section 18(h), RTAP Reapportioned as FY 90	0.00	$10,313.00	0.00	0.00	0.00	0.00	$10,313.00	0.00	$10,313.00
University Transportation Centers	0.00	0.00	4,930,000.00	0.00	0.00	55,000.00	$4,985,000.00	0.00	$4,985,000.00
Bus Testing Facility	1,311.00	0.00	0.00	0.00	0.00	0.00	1,311.00	0.00	1,311.00
Subtotal, 69X8191 (37)	579,380,616.59	0.00	1,135,440,000.00	1,905,520.00	0.00	(689,254.68)	$1,715,697,425.43	109,781,221.00	$1,605,916,138.43
FORMULA GRANTS (TRUST FUND 69X8191) - (37)									
Section 9A - Urban Formula (1983)	$0.00	$0.00	$0.00	$283,231.00	$0.00	($283,231.00)	$0.00	$0.00	$0.00
Section 18 - Nonurban Formula (1983)	3,200.53	(3,200.53)	0.00	100.00	0.00	0.00	100.00	0.00	100.00
Section 18 - Nonurban Formula 1983, Reappor. as FY 90	0.00	3,200.53	0.00	0.00	0.00	0.00	3,200.53	0.00	3,200.53
Section 16, Electric Bus Tech. Reimb.	205,615.00	0.00	0.00	0.00	0.00	0.00	$205,615.00	205,615.00	$0.00
Subtotal, 69X8191 (37)	208,815.53	0.00	0.00	283,331.00	0.00	(283,231.00)	208,915.53	205,615.00	3,300.53
Undistributed - Discretionary	75,735,473.34	0.00	0.00	0.00	0.00	761,606.25	76,436,079.59	0.00	76,436,079.59
Obligation Limitation - (Unavailable)	331,127,000.00	0.00	164,335,000.00	0.00	0.00	0.00	495,513,000.00	0.00	495,513,000.00
Total, 69X8191 (Trust Fund)	985,000,005.36	0.00	1,300,000,000.00	3,133,505.20	0.00	0.00	1,287,152,996.64	109,981,926.00	1,177,063,070.64
UMTA TOTALS, ALL ACCOUNTS	1,990,531,308.38	(0.00)	3,179,345,000.40	50,113,677.45	(1,377,160.04)	0.00	4,736,318,477.29	985,966,481.00	3,877,651,996.29

Date availability of Section 9B funds:

Section 9B (1988) lapses at END 1991
Section 9B (1989) lapses at END 1992
Section 9B (1990) lapses at END 1993

SENATOR LAUTENBERG: For Section 3, list those unobligated balances that have been earmarked for a particular project. Also indicate the year(s) those funds were made available.

ANSWER: The information follows:

BUS AND BUS RELATED UNOBLIGATED EARMARKS

AREA	DESCRIPTION	UNOBLIGATED BALANCE	FISCAL YEAR EARMARKED
NEW ORLEANS	LEASE BUSES	$118,000	FY 1990
BALTIMORE	TRANSIT CENTERS; PARKING LOT	$2,630,499	FY 1990
BALTIMORE	SURBURBAN TRANSIT PROGRAM	$2,630,000	FY 1989
BALTIMORE	BUS AUTOMATIC VEHICLE MONITORING	$3,250,000	FY 1988
BALTIMORE			
	AVM SYSTEM	$4,249,998	FY 1988
BALTIMORE	PHASE II		
BUFFALO, NY	CONSTRUCT COLD SPRINGS GARAGE	$7,999,998	FY 1990
BUFFALO, NY	PURCHASE 50 BUSES	$4,800,000	FY 1989
NEW YORK, NASSAU COUNTY, NY	PURCHASE 50 BUSES (AFI)	NO AMOUNT SPECIFIED	FY 1989
PORTLAND, OR	INTERMODAL TERMINAL	$2,500,000	FY 1989
PORTLAND, OR	BUS PURCHASE PROGRAM	$14,500,000	FY 1989

RAIL MODERNIZATION UNOBLIGATED EARMARKS

AREA	DESCRIPTION	UNOBLIGATED BALANCE	FISCAL YEAR EARMARKED
PHILADELPHIA	REFURBISH NORTH PHILA AMTRAK STATION	$350,000	FY 1988
PHILADELPHIA	RESTORE TEMPLE UNIV. STATION	$5,700,000	FY 1988
PHILADELPHIA	NEW UNIVERSITY CITY COMMUTER RAIL STATION	$2,850,000 $3,300,000	FY 1988 FY 1989
PHILADELPHIA	BROAD STREET/ SUSQUEHANNA STATIONS	NO AMOUNT SPECIFIED	FY 1989
PHILADELPHIA/ NE NEW JERSEY	CETC INSTALLATION	$30,000,000	FY 1989
NEW YORK (MTA/LIRR)	PROTECTIVE BARRIERS ON LIRR MAIN LINE	$3,147,500	FY 1988
NEW YORK (MTA/LIRR)	RECONSTRUCT UNION HALL STATION	$4,800,000	FY 1989
NW INDIANA	SOUTH SHORE COMMUTER RAIL SYSTEM	$200,000	FY 1988

NEW SYSTEMS UNOBLIGATED EARMARKS

UZA	FY 87			FY 88			FY 89			FY 90			FY 87 - 90 CARRYOVER BY UZA
	EARMARK	OBLIGATED	CARRYOVER	EARMARK	OBLIGATED	CARRYOVER	EARMARK	OBLIGATED	CARRYOVER	EARMARK	OBLIGATED	CARRYOVER	
ATLANTA	$90,624,600	$90,624,600	$0	$105,470,000	$105,469,998	$2	$69,650,000	$69,650,000	$0	$52,087,787	$0	$52,087,787	$52,087,789
HOUSTON	46,765,000	46,765,000	0	0	0	0	49,750,000	0	49,750,000	64,480,975	0	64,480,975	114,230,975
LOS ANGELES	107,308,400	107,308,400	0	139,797,500	96,271,485	43,526,015	147,260,000	0	147,260,000	138,882,100	0	138,882,100	329,668,115
MIAMI	11,940,000	7,815,830	4,124,170	17,412,500	0	17,412,500	14,427,500	0	14,427,500	11,904,180	0	11,904,180	47,868,350
PORTLAND	1,293,500	1,293,500	0	0	0	0	5,472,500	0	5,472,500	7,936,120	0	7,936,120	13,408,620
SAN JOSE	18,375,750	18,375,750	0	0	0	0	0	0	0	28,272,428	0	28,272,428	28,272,428
SEATTLE	67,530,650	67,412,649	118,001	67,162,500	67,162,500	0	17,910,000	17,910,000	0	0	0	0	118,001
ST. LOUIS	12,765,850	12,765,850	0	54,177,750	54,177,750	0	59,700,000	59,700,000	0	66,961,012	0	66,961,012	66,961,012
DENVER	6,517,250	6,517,250	0	14,129,000	14,129,000	0	15,920,000	15,920,000	0	15,872,240	0	15,872,240	15,872,240
SLC, UTAH	0	0	0	3,582,000	0	3,582,000	4,975,000	0	4,975,000	1,984,030	0	1,984,030	10,541,030
JACKSONVILLE	0	0	0	3,980,000	3,980,000	0	6,965,000	6,965,000	0	14,880,225	0	14,880,225	14,880,225
BALTIMORE	0	0	0	0	0	0	5,970,000	2,587,500	3,382,500	5,952,090	0	5,952,090	9,334,590
NEWARK	0	0	0	0	0	0	1,990,000	1,989,999	1	4,960,075	0	4,960,075	4,960,076
TOTALS	$363,193,000	$358,950,829	$4,242,171	$398,169,250	$337,210,733	$60,938,517	$380,090,000	$163,180,000	$216,910,000	$386,396,842	$0	$386,396,842	$668,487,530

NOTE: FY 86 BUFFALO C/O 808,935

FY 86 UNALLOCATED 70,850

SECTION 16(B)(2) ELDERLY AND HANDICAPPED

SENATOR LAUTENBERG: In the Report on last year's appropriations bill, this committee mandated a "return to the procedures which governed the leasing of Section 16(b)(2) vehicles to public bodies which were in effect prior to July 1988." As you know, this language was confirmed by the Conference Report. Has action to effect that direction taken place? If so, what is the nature of that action and, if not, what response to our instruction does the agency intend to make and when?

ANSWER: This matter has been under intense review within UMTA, but no final action has yet been taken. We expect to reach some resolution within the next several weeks. This question is at issue because, in 1988, when the Section 16(b)(2) program guidance was being updated for reissuance, it was called to our attention by UMTA's Office of the Chief Counsel that the provisions contained in existing guidance (UMTA Circular 9070.1, issued in 1985) with respect to leasing vehicles to public bodies was inconsistent with statutory intent. Consequently, in the updated issuance of the circular in July, 1988, we deleted all references to leasing to public bodies and instructed State grantees that they should no longer permit local 16(b)(2) recipients to lease their vehicles to public bodies.

Based upon the language in the Senate report, we are currently investigating the legislative history of the Section 16(b)(2) program to determine whether there are any impediments to following the Senate committee language. UMTA plans to issue a legal opinion on this matter within the next several weeks. If we find that the circumstances under which leasing to public bodies under the existing statute are too narrow to provide significant relief to local recipients, we then intend to address this issue as part of our reauthorization proposal. We believe it could be useful to make some statutory changes which would provide more flexibility in the use of Section 16(b)(2) funds, including the ability to lease vehicles to public bodies.

SENATOR LAUTENBERG: Earlier, UMTA guidance on the leasing of Section 16(b)(2) vehicles prohibited recipients from leasing them to public transit agencies for operation. Could you explain why that policy was established, and whether it is still an appropriate policy in view of the need to improve the delivery and coordination of federal transit assistance to special client groups?

ANSWER: UMTA guidance has never permitted recipients to lease Section 16(b)(2) vehicles to public transit agencies for operation. This has been our position, not as a matter of policy, but as a matter of complying with the statutory provisions of Section 16(b)(2). Section 16(b)(2) grants can be awarded only where there is a finding that services provided by States and local public bodies, such as public transit authorities who are recipients of other UMTA funds, are unavailable, insufficient or inappropriate for the special needs of elderly or disabled persons. Thus, a basis for making a 16(b)(2) grant is the fact that the public transit authority could not provide the service. Therefore, it would not be consistent with the language and intent of the statute to permit a local nonprofit organization to then turn around and lease a vehicle to a public transit agency. As part of our reauthorization process, we are reviewing the Section 16(b)(2) program to determine what changes might be needed in the statute to improve the ability of the Section 16(b)(2) recipients to coordinate with other providers of human service transportation. In some cases, particularly in rural areas, it might improve service delivery if 16(b)(2) recipients were able to more fully coordinate with Section 18 public operations which are often human service as well as general public transit providers. We are examining this and other changes consistent with the goal of providing maximum state and local flexibility in carrying out UMTA programs.

SENATOR LAUTENBERG: What is the present level of the 16(b)(2) fleet of vehicles?

ANSWER: There are approximately 11,000 Section 16(b)(2) vehicles in active service. Vans account for 90 percent of the vehicles purchased under the program.

SENATOR LAUTENBERG: Are 16(b)(2) funds being used to expand to fleet size or to maintain it?

ANSWER: Section 16(b)(2) funds are being used primarily to maintain the current fleet. For the past three years, since the annual program level has been $35 million, the average number of vehicles purchased annualy has been 1,473. If we assume a national fleet of 11,000 vans, with a 5 year useful life, 2,200 vehicles need replacing annually. Thus, at a $35 million annual funding level the program has been able to meet approximately 66 percent of the national fleet replacement needs annually.

SENATOR LAUTENBERG: For what purpose have the 16(b)(2) funds been used for the past three fiscal years?

ANSWER: A wide range of private nonprofit organizations received funding to purchase specially equipped vehicles to provide transportation for elderly and handicapped persons. Recipients include church organizations, senior citizens programs, rehabilitation centers, and coordinated human service transportation providers. In addition to vehicles, recipients also purchased ancillary two-way radio equipment and computer software and hardware. However, vehicle purchases account for approximately 95 percent of capital expenditures.

The chart below shows the number of private nonprofit organizations that benefited under the program, the number of vehicles purchased, and the average cost per vehicle.

Fiscal Year	No. Of Recipients	No. Of Vehicles Purchased	Average Cost Per Vehicle
1987	1030	1549	$20,300
1988	1050	1515	21,000
1989	975	1400	23,140

SENATOR LAUTENBERG: Is fleet expansion part of the administration's future years' plan for their program.

ANSWER: The 1991 budget request is for $35 million. the same level it has been for the previous three years. At this program level we expect funds to continue to be used primarily for vehicle replacement needs.

As part of the reauthorization process. we will be reviewing this program and the role it plays in providing mobility for the elderly and disabled. We will be exploring ways to more successfully coordinate this program with other UMTA programs that support specialized and human service transportation.

SENATOR LAUTENBERG: Update the chart on page 341 of Senate Hearings 101-285, part 1, on how Section 16(b)(2) funds have been spent.

ANSWER: During Fiscal Year 1989, 975 private nonprofit organizations received Section 16(b)(2) funding to purchase a total of 1,400 specially equipped vehicles to provide transportation for elderly and handicapped persons. Grants also provided for the purchase of ancillary two-way radio equipment. The attached chart shows a breakdown by State of the funding, number of nonprofit recipients, and types of equipment purchased with Section 16(b)(2) funds this Fiscal Year.

URBAN MASS TRANSPORTATION ADMINISTRATION
SECTION 16(b)(2) PROGRAM
FISCAL YEAR 1989 OBLIGATIONS

	FY-89 Total Funds Available	FY-89 Funds Obligated	No. of Recipients	No. of Vehicles Purchased With Lifts Or Ramps	Total No. of Vehicles Purchased
REGION I					
CONNECTICUT	$511,404	$511,404	25	26	26
MAINE	275,233	275,232	8	7	11
MASSACHUSETTS	910,481	910,481	13	3	34
NEW HAMPSHIRE	233,344	233,344	10	9	11
RHODE ISLAND	262,252	262,252	7	6	18
VERMONT	187,160	187,160	8	8	8
TOTAL	2,379,874	2,379,873	71	59	108
REGION II					
NEW JERSEY	1,061,239	1,061,200	25	26	26
NEW YORK	2,487,874	2,487,872	48	29	51
VIRGIN ISLANDS	129,420	129,420	4	0	4
TOTAL	3,678,533	3,678,492	77	55	81
REGION III					
DELAWARE	189,442	189,442	6	5	6
DISTRICT OF COLUMBIA	208,133	208,133	7	1	12
KENTUCKY	593,765	593,765	18	4	28
MARYLAND	564,502	564,502	18	13	21
NORTH CAROLINA	804,834	804,834	21	9	41
PENNSYLVANIA	1,766,337	1,766,337	29	30	54
TENNESSEE	712,438	712,438	36	12	44
VIRGINIA	679,759	679,759	13	4	42
WEST VIRGINIA	386,701	386,701	18	6	19
TOTAL	5,905,911	5,905,911	166	84	267

REGION IV					
ALABAMA	625,486	625,484	11	9	28
FLORIDA	1,919,404	1,919,404	55	20	98
GEORGIA	715,001	715,000	14	12	29
MISSISSIPPI	452,507	452,504	8	0	21
PUERTO RICO	430,592	430,592	14	7	14
SOUTH CAROLINA	453,226	453,224	23	13	24
TOTAL	4,596,216	4,596,208	125	61	214
REGION V					
ILLINOIS	1,499,944	1,499,944	22	39	34
INDIANA	748,389	748,389	29	6	35
MICHIGAN	1,134,750	1,134,750	15	19	23
MINNESOTA	625,969	625,969	27	27	27
OHIO	1,405,446	1,405,446	70	43	78
WISCONSIN	712,225	712,225	18	21	28
TOTAL	6,126,723	6,126,723	181	155	225
REGION VI					
ARKANSAS	476,384	476,384	23		24
LOUISIANA	582,661	582,661	25	16	26
NEW MEXICO	253,238	253,238	16	16	16
OKLAHOMA	532,373	532,373	22	16	30
TEXAS	1,632,486	1,632,486	25	52	80
TOTAL	3,477,142	3,477,142	111	100	176
REGION VII					
IOWA	529,818	529,818	7	9	26
KANSAS	444,518	444,518	19	3	26
MISSOURI	816,975	816,975	30	11	45
NEBRASKA	339,729	339,729	21	0	22
TOTAL	2,131,040	2,131,040	77	23	119
REGION VIII					
ARIZONA	460,129	460,129	19	11	19
COLORADO	392,333	392,333	10	15	16
MONTANA	213,743	213,743	9	4	8
NEVADA	196,687	196,687	11	11	11
NORTH DAKOTA	207,511	207,511	7	7	7
SOUTH DAKOTA	219,355	219,355	10	0	11
UTAH	241,866	241,866	9	5	9
WYOMING	163,729	163,729	8	2	7
TOTAL	2,095,353	2,095,353	83	55	88
REGION IX					
AMERICAN SAMOA	50,934	50,934	1	0	2
CALIFORNIA	2,776,666	2,776,666	37	42	59

*GUAM	0		0		
HAWAII	208,212	208,212	7	5	7
NORTHERN MARIANAS	50,489	0	0		
TOTAL	3,086,301	3,035,812	45	47	68
REGION X					
ALASKA	139,088	139,088	9	2	8
IDAHO	224,469	224,469	11	1	16
OREGON	445,429	445,429	11	9	16
WASHINGTON	585,971	585,971	8	14	14
TOTAL	$1,394,957	$1,394,957	39	26	54
GRAND TOTAL	$34,872,050	$34,821,511	975	665	1,400

*127,950 transferred to Section 18

RURAL TRANSIT

SENATOR LAUTENBERG: On a per capita basis, how much in UMTA funds do the following city sizes receive?

- over 1 million
- between 1 million and 200,000
- between 200,000 and 50,000
- lower than 50,000

ANSWER: The chart below shows the amount of formula and discretionary funds received per capita for four catgories of city size. The calculations include only formula and Section 3 discretionary funds. Interstate transfer, Stark-Harris, Section 8, Section 16(b)(2) and other smaller UMTA programs are not included.

The per capita figures for formula funds were derived from the fiscal year formula apportionments for urbanized and nonurbanized areas published annually in the Federal Register. The per capita figures for the discretionary funds were derived from the annual Section 3 obligations in the bus, rail modernization and new starts categories.

UMTA FUNDS DISTRIBUTION PER CAPITA BY CITY SIZE

	FORMULA	SECTION 3	COMBINED
FY 1990			
over 1 million	$14.80		
200,000-1 million	7.65		
50,000-200,000	6.21		
under 50,000	.81		
FY 1989			
over 1 million	$14.60	$13.70	$28.30
200,000-1 million	7.39	1.09	8.48
50,000-200,000	6.10	.09	6.19
under 50,000	.82	.14	.96
FY 1988			
over 1 million	$15.92	$9.96	$25.88
200,000-1 million	8.05	.23	8.29
50,000-200,000	6.65	.38	7.03
under 50,000	.81	.16	.97
FY 1987			
over 1 million	$17.74	$7.70	$25.66
200,000-1 million	9.08	.10	9.17
50,000-200,000	7.43	.50	7.93
under 50,000	.87	.01	.88

SENATOR LAUTENBERG: Has UMTA obtained from the Census Bureau any information indicating how many further urbanized areas are likely to be identified as a result of this year's Census, and where they are likely to be located?

ANSWER: The Census Bureau has indicated that they expect there to be about 60 areas designated as urbanized areas as a result of the 1990 Census. There is still some uncertainty about population growth rates in the 90 or so areas not now designated but with central cities of near 50,000 population. In addition, the definition of an urbanized area requires detailed analysis of data. Thus, they have not identified to us specifically which areas are in fact going to become urbanized areas.

SENATOR LAUTENBERG: Does UMTA have any information on how many of the new urbanized areas will already have a public transportation program assisted under section 18, and how many are currently without any public transportation?

ANSWER: Based on a review of a sample of small areas with central cities near 50,000, we believe that about one half of the new urbanized areas will already have transit service.

SENATOR LAUTENBERG: Is the agency developing any specific plans for dealing with these new urbanized areas and their transit needs?

ANSWER: We expect that we will be allocating section 9 funds to these areas in the first fiscal year after the Census Bureau provides us with the necessary data. In addition, we will also be providing them with an allocation of section 8 planning funds. The areas will be asked to designate a metropolitan planning organization. In addition, we expect that our Regional Offices will work with these areas to permit them to take advantage of these resources as soon as possible. Because of the program levels and funding formulas, these areas are likely to get an increase in the amount of transit funds available to them when they become urbanized.

SENATOR LAUTENBERG: Last year, UMTA reported that in 1988, non-urban areas obligated $26 million in Section 9 funds transferred by the respective states' governors. What has been the transferred amount for the past several years?

ANSWER: The following are the amounts of Section 9 funds transferred by governors from urbanized areas between 50,000 and 200,000 in population to the Section 18 program since FY 1984, the first year that transfers were permitted.

FY84	FY 85	FY 86	FY 87	FY 88	FY 89
$2.5m	$21.2m	$26.6m	$17.3m	$20.0m	$9.9m

SENATOR LAUTENBERG: The fiscal year 1989 transferred level fell from previous years' levels. Why?

ANSWER: The decline in the level of Section 9 funds transferred to Section 18 is due to the shrinking amount of Section 9 funds available for transfer. As the funding levels for urbanized areas under 200,000 population have declined and these areas have used up carryover balances, the Section 9 funds available to small urbanized areas are being programmed for capital and operating needs within this category of recipients.

SENATOR LAUTENBERG: Is this lower level an aberration, or indicative of likely future year's funding?

ANSWER: We believe the decline in the amount of funds transferred to Section 18 is indicative of a trend in this direction. States that have made large transfers to Section 18 in the past have indicated that they do not forsee transferring significant amounts in future years because the Section 9 funds are now needed for use within the small urbanized areas.

SENATOR LAUTENBERG: Does UMTA have or plan a response to this reduction in total rural assistance?

ANSWER: Most of the funds transferred from Section 9 to Section 18 have been used for capital purposes. UMTA plans to take into consideration this decline in the availability of capital funds for rural areas in reviewing requests by Section 18 operators, or by States on behalf of rural operators, for Section 3 discretionary capital funds.

Our reauthorization proposal will also address funding levels for the rural program in the context of overall UMTA funding.

SENATOR LAUTENBERG: Does UMTA have an estimate of the annual vehicle replacement or expansion needs for Section 18 program recipients?

ANSWER: Yes, we do have estimates on fleet replacement needs. The national Section 18 fleet consists of approximately 10,100 vehicles. Of this number, almost two-thirds are modified vans, almost one third are small buses, and a very small percentage are 40 foot transit buses. With this fleet mixture, 1,800 vehicles need replacing annually at an annual capital cost of $54 million.

This replacement level assumes that 2/3 of the national fleet consists of vans with a 5 year useful life and a $23,000 replacement cost, and 1/3 are small buses with a $30,000 replacement cost.

The Section 18 program has purchased an average of approximately 600 vehicles annually over the past five years, thus providing about one third of the annual fleet replacement needed nationally.

SENATOR LAUTENBERG: Provide the number of vehicles purchased using Section 18 (and transferred 9(a)(1)) funds for the past several years.

ANSWER: Section 18 and transferred Section 9 funds have purchased the following:

FY 1989:	429 vehicles, including 276 vans, 120 small buses, 5 standard buses, and miscellaneous others such as sedans, stationwagons, school buses, etc.
FY 1988:	711 vehicles, including 442 vans, 203 small buses, 29 standard buses, and others.
FY 1987:	404 vehicles, including 227 vans, 125 small buses, 37 standard buses, and others.

SENATOR LAUTENBERG: Update the chart on page 314 of Senate Hearing 101-285, part 1, on the amount and percent of available Section 6,8,9, and 3 funds that have gone for rural areas.

ANSWER: The following table shows the amounts and percentages of funds obligated for rural areas under Section 6, Section 9, and Section 3 from Fy 1983 to FY 1989.

The figures for Section 6 are approximate since some projects benefit both urban and rural areas.

The figures for Section 9 are based on transfers to the Section 18 program as a percentage of all available funds, including carryover, during each year, starting in Fiscal Year 1984 when transfers were first authorized.

The percentages for Section 3 are based only on the Section 3 funds available for bus and bus related projects, since the new starts and rail modernization categories are not applicable to rural areas.

In addition to the programs shown on the table, some percentage of the approximately $4.5 - $5 million of Section 8 funds allocated to the States each year is used for planning projects benefitting rural areas, but exact figures are unavailable since these funding decisions are made at the State level.

OBLIGATIONS FOR RURAL AREAS

Fiscal Year	Section 6	Section 9	Section 3
1983	----	----	$5,003,608 1%
1984	$250,000 .5%	$2,616,969 .03%	$3,081,855 1.5%
1985	$500,000 .8%	$21,211,575 .6%	$1,260,000 1%
1986	$800,000 3.7%	$26,961,276 .9%	$3,993,957 1.9%
1987	$750,000 3.9%	$18,072,259 .6%	$1,164,375 .6%
1988	$247,740 2.0%	$20,211,544 .8%	$13,155,528 5.4%
1989	$149,750 2%	$9,808,324 .5%	$11,906,110 4%
1990 (estimated)	$100,000	$ 7-9,000,000	$15,000,000

SENATOR LAUTENBERG: Update the chart on page 315 of that same report on how non-urban areas used the federal funds provided.

ANSWER: The following table shows how Section 18 funds were programmed by the States for the four major categories of assistance: capital; operating; project administration; and State administration.

USE OF SECTION 18 FUNDS
(in $ Millions and Percentages)

	CAPITAL	OPERATING	PROJ. ADMIN.	STATE ADMIN.
FY 84	$42.5 (36.7%)	$47.2 (40.7%)	$17.6 (15.2%)	$8.6 (7.4%)
FY 85	$31.2 (29.0%)	$50.7 (47.2%)	$16.3 (15.2%)	$9.2 (8.6%)
FY 86	$33.1 (28.3%)	$50.9 (47.6%)	$17.3 (16.3%)	$8.4 (7.8%)
FY 87	$23.2 (28.5%)	$40.6 (49.9%)	$11.2 (13.7%)	$6.3 (7.8%)
FY 88	$29.9 (27.0%)	$51.3 (50.0%)	$15.3 (15.0%)	$8.1 (8.0%)
FY 89	$14.7 (19%)	$44.8 (57%)	$13.2 (16%)	$6.7 (8%)

RULEMAKING

SENATOR LAUTENBERG: What rulemakings do you have in progress? When will they be finalized?

ANSWER: The Urban Mass Transportation Administration has five rulemakings currently in progress: bus testing, new starts, pre-award and post-delivery audits, Buy America, and capital leasing.

1. Bus Testing. This requires any new model bus purchased with UMTA funds to be tested at a facility in Altoona, Pennsylvania. UMTA published an interim final rule on August 23, 1989. The agency is developing a final rule, although it may extend the interim rule for a period of time before the final rule is published.

2. New Starts. Section 303 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) required UMTA to fund only cost-effective new start projects. A proposed rule implementing this requirement was published on April 25, 1989. Under the 1990 Appropriations Act, however, UMTA may not "implement or enforce" the new starts final rule. Accordingly, the agency does not anticipate taking any action on the final rule until this issue is resolved.

3. Pre-Award and Post-Delivery Audits. Section 319 of STURAA required audits of UMTA-funded vehicles for compliance with Buy America, Federal motor vehicle safety standards and bid specifications. The agency published a proposed rule on October 18, 1988, with a comment period ending December 18, 1988. UMTA anticipates publishing a final rule some time before September.

4. Buy America. UMTA published a proposed rule to implement section 337 of the STURAA on August 26, 1988. The final rule is being developed and should be issued before September.

5. Capital Leases. This regulation, permitting certain leases to be eligible for capital funding (80 percent) rather than operating (50 percent) funding, was published in proposed form on May 20, 1988. UMTA anticipates publishing the final rule before September.

SENATOR LAUTENBERG: What rulemakings were finalized in 1988 and 1989?

ANSWER: The Urban Mass Transportation Administration finalized the following rulemakings during 1988 and 1989:

1. Drug Testing. UMTA's anti-drug final rule was published on November 21, 1988, with a compliance date of December 21, 1989, for large properties. A January 1990 ruling of the U.S. Court of Appeals for the District of Columbia Circuit held that UMTA does not have sufficient statutory authority to issue a national drug testing regulation. On January 25, 1990, UMTA suspended its regulation until further notice.

2. Charter Service. A final rule was published in the Federal Register on December 30, 1988, effective January 30, 1989. This amendment to the charter service regulation provides additional exceptions to the general prohibition on the use of UMTA-funded equipment and facilities for charter service.

3. Bus Testing. This rulemaking requires any new model bus purchased with UMTA funds to be tested at a facility in Altoona, Pennsylvania. UMTA's interim final rule was published in the Federal Register on August 23, 1989, effective from October 1, 1989 up to September 30, 1990. (The agency is developing the final rule.

4. Project Management Oversight. UMTA published its final rule implementing section 324 of the 1987 STURAA on September 1, 1989, effective October 2, 1989. It permits UMTA to contract

directly with private entities for project management oversight of major capital projects.

5. Buy America. A final rule (technical amendment) was published in the Federal Register on January 11, 1988, effective on the same date. The purpose of this amendment is to revise Appendix A to reflect the correct reference to Title 48.

6. Withdrawal of Rulemaking. UMTA published a withdrawal of advance notice of proposed rulemaking in the Federal Register on September 13, 1988. The rulemaking proposed an extension of certain safety requirements to all federally-assisted buses. Additionally, this notice rescinded UMTA's policy making certain safety specifications mandatory for all advanced design buses.

7. Withdrawal of Rulemaking. A notice in the Federal Register on September 7, 1988, withdrew from rulemaking the proposed regulation titled "Technology Introduction Program" for section 3(a)(1)(c) grants and the proposed regulation titled "Innovative Techniques and Methods in the Management and Operation of Public Transportation" section 4(i) grants. Notices of proposed rulemaking for the two programs had been pending since 1980 and 1981.

SENATOR LAUTENBERG: What rulemakings do you anticipate for fiscal year 1991?

ANSWER: The only rulemaking UMTA at this time anticipates issuing in fiscal year 1991 would be a rule relating to its currently suspended anti-drug regulation. Should Congress give us authority to reissue the rule, the agency will do so. In addition, there would probably be a follow-up rule consisting of technical amendments.

In addition, the proposed rule implementing the new starts provision of the Surface Transportation and Uniform Relocation Assistance Act of 1987 currently is on hold. Language in the 1990 Appropriations Act stated that UMTA may not "implement or enforce" the new starts final rule. If the new starts issues are resolved, we potentially could issue a final rule in fiscal year 1991.

PROJECT MANAGEMENT OVERSIGHT

SENATOR LAUTENBERG: With 10 additional staff, does UMTA have a sufficient staffing level to oversee its broad functions?

ANSWER: Until UMTA completes its agency-wide staffing and workload analysis, the exact level of UMTA resources necessary to adequately support its mission has not been determined. However, we believe that UMTA's complex grant and financial workload requires between 450 and 475 FTE work-years.

SENATOR LAUTENBERG: Where and how does UMTA plan to use the additional 10 full-time staff? How will the additional staff be allocated between Headquarters and the field?

ANSWER: The ten additional positions will be allocated to our regional offices to strengthen the grants management oversight function. The new staff will be involved in the primary UMTA tasks of reviewing grant applications and overseeing approved projects, including managing project management oversight contractors' monitoring of major capital projects and conducting triennial reviews.

SENATOR LAUTENBERG: What background and training will be required of the new staff?

ANSWER: The new staff will need a mixture of different backgrounds and skills. This training and background will be from the engineering, financial, clerical, or transportation fields. The background and skills required may be used for: (1) evaluating the performance of grantees and their contractors in the implementation of major construction, system design and development programs; (2) assessing grantees' programs to ensure that projects are directed toward achieving the purpose for which the grant was made; (3) evaluating the design of projects for engineering feasibility, cost effectiveness, performance, and safety; (4) working with grantees in developing applications for capital and planning grants; (5) understanding the operational characteristics of mass transportation systems and area transit operations in order to effectively deal with various grant-related problems and issues and, (6) performing duties such as typing, distributing and controlling mail, providing non-technical information and other general office-related functions.

SENATOR LAUTENBERG: What initiative has UMTA taken to improve internal control procedures in its grants management system?

ANSWER: UMTA has taken steps to improve the issuance of updated policy and program guidance directives regarding applications for Federal funds and the management of those federally funded projects. Further, in 1989, the entire segmentation of UMTA components was reviewed and revised. Risk assessments were then performed on the revised list of components. A Management Control Plan for completing evaluation was developed to cover the next 3 years.

SENATOR LAUTENBERG: Have the one-half of one percent set-aside funds ever been used on other activities? If so, on what, under what authority?

ANSWER: To date, the one-half of one percent set-aside funds have only been expended for the Project Management Oversight Program under Section 23(a) to oversee the design and construction of major capital projects. In the future, as authorized in the FY 90 Appropriations Act, some of the set-aside funds will be used to perform reviews in the following areas: safety, procurement, management, financial and audits.

SENATOR LAUTENBERG: Will the additional ten regional staff lessen the need for outside contractors?

ANSWER: No. The ten additional regional staff, in addition to their grants activities, are needed as contracting officer's technical representatives (COTRs) in UMTA's project management oversight (PMO) and in our expanded procurement and financial review program.

GRANTS PLANNING

SENATOR LAUTENBERG: How much authority do Metropolitan Planning Organizations (MPOs) have to establish overall transportation priorities on a regional and inter-modal basis?

ANSWER: MPO's are the regional bodies charged with the conduct of the urban transportation planning and programming processes

which support the expenditure of Federal transportation funds in urbanized area of greater than 50,000 population. These functions are mandated by the Federal laws (Section 8 of the "Urban Mass Transportation Act of 1964, as amended," Section 23 of "Title 23, U.S. Code") governing the transit and highway programs, respectively, and are detailed in the joint UMTA/FHWA planning regulations. MPO's are also the single, region-wide recipient of Federal funds specifically designated for transportation planning purposes.

The makeup of MPO's is designated by agreement among the affected units of local government and the Governor of the respective State. MPO's may be an independent entity, a unit of general purpose local government (e.g., city or county), or attached to a regional agency having other planning functions (e.g., regional planning commission). The authority given to each MPO also varies depending on agreements reached among the respective State and local governments.

In all cases, MPO's are responsible for coordinating and developing a comprehensive program for Federally-supported transportation planning activities regardless of funding source. They also have the planning and programming responsibility for all Federal surface transportation capital investment funds flowing to a given region. How this authority is exercised is very much dependent on the position of the MPO relative to the respective implementing entities.

If the MPO is the designated recipient of Federal transit funds and there are numerous transit operators in the region, as is the case with the Metropolitan Transportation Commission in the Bay Area of California, the MPO sets investment priorities directly.

In regions where the MPO is not the designated recipient of Federal funds, its operational priority setting role is not as strong, but the MPO still significantly impacts investment priorities through its unique multi-modal, comprehensive regional planning and programming mandate.

Where there are trade-offs to be made among modes competing for the same pot of money, (e.g., when withdrawals and transit substitutions were proposed for the Interstate Highway Program), MPO's are the institutions making them. Where there are trade-offs to be made between sectors of a region (e.g., when a priority corridor must be selected for Federal project planning/alternatives analysis,) MPO's are again the institution which makes them.

SENATOR LAUTENBERG: Do MPO's establish overall priorities for the transit operators in their region, or do they merely consolidate the individual operators' project lists?

ANSWER: Metropolitan Planning Organizations (MPO's) are responsible for the planning and programming necessary to insure the best use of available Federal transportation funds. Both the organization of MPO's and their precise authority in meeting their planning and programming mandates are dependent upon the agreements reached among the affected local units of general purpose government, the State, and local transit operators.

The manner in which local priorities are set is thus very much a function of the local situation. Where there is more than one transit operator (and/or highway implementing agency) competing for a fixed amount of Federal funds, and the MPO is the designated recipient for them, the MPO will be the institution directly setting regional investment priorities.

In regions where there is only one transit operator, and the transit operator is the designated recipient, the role of the MPO in setting priorities for Federal transit funds is less strong. However, even in that situation, the MPO still retains the legislatively mandated responsibility for developing a transportation improvement program from which projects must be drawn in order to be eligible for Federal funding. As such, the MPO functions as the sole forum for making trade-offs among the parts of regions which may extend beyond the service area of the single designated recipient, and trade-offs among competing modes where Federal assistance can be used to support any of them.

SENATOR LAUTENBERG: To what extent are concerns about air quality, congestion, land use, handicapped and elderly access, and other social issues considered by the MPO in approving the TIP?

ANSWER: Every year, as part of its oversight of the transportation planning process, UMTA establishes a series of National Emphasis Areas (NEA's) that it believes should be insinuated into local planning processes. For FY 1990, these NEA's included basic transportation/land-use planning, congestion management, air quality planning, elderly/handicapped mobility planning, transit safety and security enhancement, financial planning and competitive contracting support. Many of these subjects have been emphasized for a number of years.

As part of the process of negotiating unified planning work programs with MPO's, UMTA encourages local officials to undertake the planning and technical study activities necessary to support decision making related to these policy areas. In FY 89, about 20 percent of the Section 8 Planning and Technical Studies Program was used to fund activities related to them.

As a further way of emphasizing these policy initiatives, UMTA also provides direct assistance and training in related technical areas. In addition, UMTA gives special funding beyond normal formula marks when MPO's propose studies which will advance the state of planning practice and serve as models for other urbanized areas with similar problems.

The results of this work is available to the local decision makers comprising the MPO for use in their deliberations on the adoption of both long and short range transportation plans and improvement programs.

SENATOR LAUTENBERG: To what extent does UMTA revise and review the priorities of the grantees' projects?

ANSWER: The joint UMTA/FHWA planning regulations call for the Metropolitan Planning Organization (MPO) in each urbanized area to develop a Transportation Improvement Program (TIP), from which projects must be drawn in order to be eligible for receiving Federal capital transportation assistance. The TIP identifies both the Federal and non-Federal financial resources that will be used to support each urbanized area's highest priority projects. TIP's reflect the agreements reached among the respective State, local governments and public transit operators, arrived at under the auspices of the MPO as a forum for cooperative regional decision making.

Consistent with the National Transportation Policy which calls for transportation investment decisions to be made by the entities with the greatest stake in the results, UMTA does not review the priorities resulting from this locally-based process. Instead, in determining eligibility for Federal assistance, UMTA focuses on whether proposed projects meet all applicable Federal requirements such as those dealing with cost-effectiveness in the case of major investments, planning, environmental impacts, handicapped access, etc.

SENATOR LAUTENBERG: What assurances does UMTA have that the grantees are targeting funds to the most needed projects?

ANSWER: By law, in order to be eligible for Federal funding, proposed projects must be part of a program of projects submitted to the Secretary for approval. In turn, that program of projects must be based on a planning process which is carried out in conformance with the objectives of Section 8 of the Urban Mass Transportation Act regarding the interaction of development and transportation, energy conservation, mobility for the disadvantaged, etc.. Metropolitan Planning Organizations (MPO's) are the principal focus of the resulting transportation planning and programming activities which govern the expenditure of Federal transportation assistance. MPO's either carry out directly or coordinate the planning and technical studies which support the development of the requisite plans and programs.

The central issue in virtually all the planning and technical studies undertaken as part of the Federally-required and funded planning and programming process is the effectiveness of proposed plans and programs in meeting the goals and objectives of the respective urbanized area.

Another way that UMTA ensures that funds are targeted to the most needed projects, is its specific policy governing the project planning and Federal evaluation process for major new start projects. The portions of this policy dealing with the project planning and development process date from the seventies, while the parts of the policy dealing with project evaluation were first enunciated in the May 1984 "Major Capital Investment Policy."

Both the process and project evaluation aspects of the 1984 policy were incorporated into the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) which requires that projects: 1) Be based on the results of an alternatives analysis and preliminary engineering 2) Be cost-effective 3) Be supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain and operate the system or extension.

By supporting (and in the case of major investments, mandating) a planning and programming process during which grantees study a range of alternatives and evaluate them in terms of cost-effectiveness, financial impact, etc., UMTA insures that funds are targeted to the most needed major investment projects by local (and for discretionary funds, Federal) decision makers.

RESEARCH AND DEVELOPMENT

SENATOR LAUTENBERG: It is my understanding that the Section 4(i) program under which UMTA can provide for innovative projects in urban and rural areas is currently inactive. Could you provide to the Committee a status on the program and a statement of the Administration's policy with regard to it.

ANSWER: While this has not been a specific line item in the budget since fiscal year 1988, we continue to fund a limited number of Section 4(i) projects using unobligated balances and recoveries.

The following is a list of Section 4(i) projects for the past three years.

FY1987 SECTION 4(i) PROJECTS

Grantee Project Number	Obligated	Project Description
NJ Transit NJ-03-4072	500,000	Site planning & environmental work for privately financed & operated transit operations.
PTSB NY-03-4231	150,000	Develop & test compliance audit procedures for system safety.
LACTC CA-03-04327	150,000	Contracting out transit services to private operators.
Nebraska DOT NE-03-4002	220,000	Develop innovative management & operation of intercity bus services

RTA LA-03-4046	150,000	Contracting out transit services to private operators.
SORTA OH-03-4005	150,000	Contracting out transit services to private operators.
Stamford CT-03-4053	269,000	Private sector involvement in reduction of traffic congesiton.

FY1988 Sections 4(i) Projects

Grantee Project Number	Obligated	Project Description
Allegheny County PA-03-4007	160,000	Improved transit service to suburban & low density areas.
Anchorage AK-03-4003	215,205	Low cost transit services for Anchorage.
Dept. of Roads NE-03-4002	50,000	Continue operational support of intercity rural bus lines.
Dade County FL-03-4005	150,000	Assess competitive contracting for public transit services.
Montgomery Cty. MD-03-4500	110,000	Examine feasibility of peoplemover system from from Grosvenor to Rock Spring.
Norfolk VA-03-4502	175,000	Develop a plan to encourage joint development with private sector.
Mountainland AOG UT-03-4002	200,000	Examine feasibility of 3 transit systems.
CalTrans CA-03-4336	35,000	Pursue demand management & reduce peak hour trips
OCTD CA-03-4500	197,128	Develop a TMA in City of Brea.
SCAG CA-03-4501	300,000	Develop "how-to" manual for TMA's.

Windham CT-03-4005	7,350	Provide transportation service to elderly and handicapped by volunteers.
HARTline FL-03-4500	200,000	Provide a reverse commute service in Tampa.
Metro Council MN-03-4500	200,000	Develop transportation management to minimize traffic.
North Brunswick NJ-03-4007	115,308	Develop a traffic reduction ordnance.
Utica NY-03-4232	142,460	Develop & implement transit fare structure.
PATH NY-03-4500	300,000	Increase effectiveness TransitChek.
CENTRA NY-03-4502	72,000	Establish transportation planning forum.
SEPTA PA-03-4008	150,000	Demonstrate decentralized marketing program.
DVRPC PA-03-4501	350,000	Implement TMA in 3 cities.
DVRPC PA-03-4503	300,000	Implement TransitChek.
NVTC VA-03-4001	100,000	Promote use of transit through marketing program.
Seattle WA-03-4500	335,000	Implement several demand management strategies.
Michigan DOT MI-03-4500	249,600	Develop a technical assistance network on drug abuse.
Grand Rapids MI-03-4501	98,345	Develop transit gain-sharing program.
Ohio State OH-03-4500	150,000	Demo of statewide drug free consortium.
Pennsylvania PA-03-4502	150,000	Demo for pooling resources for anti-drug programs.
Texas State TX-03-4500	150,000	Demo to coordinate drug control measures & training on drug abuse.
Washington State WA-03-4501	140,000	Demo to develop training on drug rule.

FY1989 Sections 4(i) Projects

Grantee Project Number	Obligated	Project Description
Tidewater Transp. VA-03-4501	500,000	Consumer choice subsidies
Maine DOT ME-03-4500	108,000	Consumer choice subsidies
Greater Attleboro MA-03-4502	75,000	State drug demo

SENATOR LAUTENBERG: What is the status of the fuel cell bus technology program?

ANSWER: Two contractor teams were selected for Phase I: Proof-of-Feasibility, to develop fuel cell/battery systems in a competitive parallel approach to determine the technical and economic feasibility of a fuel cell/battery bus in an urban setting.

One team--Booz, Allen, & Hamilton with Fuji Electric and Chrysler Pentastar--developed their system around a liquid cooled fuel cell. The other team--Energy Research Corporation with Los Alamos National Laboratories and Bus Manufacturing Inc.--based their system on an air cooled fuel cell.

The Phase I efforts have been completed. The independent evaluation conducted by Battelle for UMTA is also completed. It is the consensus of all participants, including DOE and UMTA, that a fuel cell/battery bus is technically feasible. The general conclusion is that the liquid cooled technology appears to be technically superior to the air cooled system.

The economic feasibility is more difficult to determine. The wide range in variability of the life cycle costs of the two major components, the fuel cell and the battery, creates uncertainty as to the system's economic feasibility. The technology has not matured to where precise life cycle costs can be accurately pin pointed. Both systems, the air cooled and liquid cooled, appear to be within the range of economic competitiveness with a diesel bus. However, the liquid cooled system appears to be economically superior.

Both systems are expected to be extremely low polluting. The emission level is expected to be less than one percent of current diesel buses, i.e., a fleet of 200 fuel cell buses would emit as much pollution as one diesel bus.

DOE is initiating a new procurement for the Phase II: Proof-of-Concept effort. Phase II will lead to development of test-bed fuel cell/battery buses as well as their operational testing. This Phase will include the design of a 40-foot fuel cell/battery bus and 3 other test bed buses.

We have already transferred the remaining $310,000 balance of the FY 1989 earmark to DOE to initiate the Phase II efforts, and we are in the process of transferring $847,000 of the FY 1990 earmark to DOE. We will retain the $150,000 balance of the FY 1990 earmark for continued technical support.

SENATOR LAUTENBERG: What other research has UMTA supported in the area of alternative fuels? List projects, amounts, and dates.

ANSWER: UMTA's Methanol Bus Demonstration program, which is an element within UMTA's Clean Air Program, began in 1983 and covered 59 buses deployed in seven cities across the Nation: 2 in San Francisco, 3 in Jacksonville, 10 in Seattle, 3 in Riverside, 6 in New York, 30 in Los Angeles, and 5 in Denver. I would like to emphasize that of the $17.5 million total cost for this program, over $11 million was from non-Federal sources.

In September 1988 the Secretary announced UMTA's Alternative Fuels Initiative (part of UMTA's Clean Air Program) to introduce alternative fueled vehicles into the mainstream of the nation's transit operations and service. This is a capital program and is funded from UMTA's Section 3 and 9 programs. We have already approved 23 of these applications totaling $22 million for 219 vehicles, of which 121 (almost 60 percent) are CNG vehicles; 16 (7 percent) are methanol vehicles; and 27 (12 percent) are ethanol vehicles. Funding will continue in FY 1990.

UMTA has also provided technical support to its Clean Air Program through specific technical studies as well as general technical support. An Interagency Agreement for $150,000 was executed with Argonne National Laboratories in 1987 for an environmental assessment of the use of methanol in transit buses. An Interagency Agreement for $250,000 was executed with the National Institute for Occupational Safety and Health in 1988 to evaluate the health and safety impacts of the use of methanol in transit buses. Since 1985, Battelle

Laboratories has been under a $847,000 task order contract which includes support for the Clean Air Program.

SENATOR LAUTENBERG: What is the status of the cold weather technology program?

ANSWER: The issue that held up the Third Party Contract Review Board's approval has been amicably resolved. The University has provided UMTA with an updated satisfactory sole source justification for the use of ElectroCom Automation, Inc. UMTA concurred in the noncompetitive award of the contract provided Notre Dame met conditions of the UMTA Circular 4220.1B, specifically stated in UMTA's December 1, 1989 letter.

Notre Dame reported that they have successfully completed their negotiations with ElectroCom Automation, Inc. and are now under contract to proceed with the work.

The current schedule calls for testing in the winter of 1990-91, provided developments of the preliminary elements progress as expected. To date, the University has obtained the cooperation of LEPEL Corporation in the development of the Radio Frequency (RF) system and in the integration of more recent solid state development in RF generation. The final schedule is dependent upon the size, frequency and type of RF generator.

SENATOR LAUTENBERG: What are UMTA's objectives for transit research? How are they reflected in the budget request:

ANSWER: UMTA's objectives for transit research are consistent with the President's Management Objectives and the new National Transportation Policy (NTP). The following is a list of UMTA's research programs and the Objective which drives each program. These programs are described in detail in the FY 1991 budget submission.

UMTA Program	Management Objective/NTP
Regional Mobility	Improve Transit's Ability to Alleviate Congestion and Improve Mobility
Disabled Americans	Improve Mobility for the Elderly and Handicapped

Clean Air	Improve the Environment
Safety	Improve Transportation Safety
Drugs and Alcohol	Establish Drug Free Transit Industry
Financial Leveraging Competitive Joint Development Entrepreneurial	Increase Mix of Public/Private Investments of Transit
Infrastructure and Equipment	Improve Industry Productivity and Competitive Posture

SENATOR LAUTENBERG: APTA has called for research along the specific priority areas outlined in the 1987 Transportation Research Board's (TRB) "Research for Public Transit -- New Direction's ". How do your priorities agree and disagree with TRB's priorities?

ANSWER: The TRB report outlined seven broad areas of research as uppermost in the minds of transit managers. These included:

- human resources management;
- service configuration and marketing;
- service delivery models;
- internal efficiencies;
- maintenance;
- equipment; and
- innovative financing.

By and large, the UMTA research program, while it has focused on areas of federal concerns, over the past few years has touched on most of these subject areas.

Under the proposed new authorization for 1992 and beyond UMTA is considering options which will provide for more of a local research focus on these research areas as well.

SENATOR LAUTENBERG: What is the Transit Development Corporation, and UMTA's relationship to the corporation?

ANSWER: The Transit Development Corporation (TDC), is a non-profit organization founded in 1972 by the then key leaders of the transit industry to develop a research and development program oriented toward operator interests. The TDC Board of Directors was composed of 18 major public transportation agencies. These agencies also financed TDC staff and administrative costs and loaned staff to TDC to support its activities.

In its initial years, UMTA was the principle funder of TDC research projects, which focused heavily on rail projects, reflecting the interests of the TDC board of directors. Although broader State and local financial support was envisioned this support did not materialize. In 1976 UMTA withdrew funding support for TDC sponsored research, citing, among other reasons, dissatisfaction with the relatively narrow constituency. UMTA also was concerned that the TDC Board were also members of APTA's Executive Committee which appeared to compromise TDC's role as an independent research body. Today, TDC still exists as a corporate entity with officers and a board of directors, although it no longer conducts a research program.

BILL PROVISIONS

SENATOR LAUTENBERG: Section 334(c) and section 340 of the fiscal year 1990 Transportation Appropriations Bill were intended as permanent law. Is that how they are being interpreted?

ANSWER: Section 340 of the fiscal year 1990 appropriations act amends the Urban Mass Transportation Act of 1964, as amended (the UMT Act), by adding a new subsection (h) to section 23 of the UMT Act. This clearly is "permanent" legislation, since it amends UMTA's authorizing statute, the UMT Act.

Section 334(c) of the fiscal year 1990 appropriations act does not similarly amend the UMT Act. Nonetheless, our Office of Chief Counsel has concluded that it is clear from the language of section 334(c) that the provision was meant to be permanent. Accordingly, we will treat it as such.

SECTION 3 GRANT APPROVAL

SENATOR LAUTENBERG: How does UMTA decide which Section 3 projects to fund?

ANSWER: Section 3 funds are grouped by category (New Systems, Rail Modernization and Bus & Bus Related).

The majority of Rail Modernzation category funds go to the eight old rail areas (New York; NE New Jersey, Boston, Pittsburgh, Philadelphia, Cleveland, Chicago, and San Francisco).

Rail Modernization funds are distributed to transit properties according to rough allocation percentages based upon service factors related to size of system. Individual project applications are reviewed based upon the benefits expected from the proposed projects, intended use of formula funds, grantee management of previous grants and their ability to maintain construction.

Proposed Bus projects are grouped into five priorities and ranked within each priority. The priorities currently are: 1) Congressional Direction/Commitment, 2) Bus Maintenance Facilities, 3) Bus Fleet Expansion, 4) Bus Fleet Replacement, and 5) Other (intermodal terminals, bus malls, etc.). Projects are selected from these priority groupings with emphasis on applications that show overmatching initiatives.

SENATOR LAUTENBERG: How does UMTA document and justify Section 3 funding decisions?

ANSWER: UMTA maintains an official file on each approved project. All prerequisite grant approval requirements (statutory, regulatory and administrative) are documented and kept in the official file. The justification for the funding decision is also contained in these documents.

SENATOR LAUTENBERG: Are local transit authorities' priorities considered in the approval process?

ANSWER: Yes they are. Our regional offices work directly with grantees as they develop applications for projects which evolve out of the local transportation improvement plan (TIP) process.

SENATOR LAUTENBERG: How promptly does UMTA notify applicants that their projects will or will not be funded?

ANSWER: Applicants are notified by letter immediately following the UMTA decision on whether a project will or will not be funded.

SENATOR LAUTENBERG: How much discretionary funding authority did the Administrator have in each of the past several years? (Update the chart on page 397 of Senate Report 101-285, part 1.)

ANSWER: In Fiscal Year 1989, discretionary funds available were $1,778.9 million. In Fiscal Year 1990, discretionary funds available were $1,569.4 million. Fiscal Year 1990 availability is as follows:

SECTION 3 DISCRETIONARY FUNDS
FY 90 AVAILABILITY
(In Millions)

ACTIVITY	FISCAL YEAR	AMOUNT
NEW SYSTEMS:	84	$0.1
	85	0
	86	0.7
	87	10.8
	88	78.6
	89	243.3
	90	417.1
RAIL:	87	46.3
	88	37.9
	89	65.9
	90	428.6
BUS:	87	0.4
	88	46.2
	89	23.4
	90	131.4
PMD:	88	0.2
	89	1.9
	90	8.1
DEOBLIGATED FUNDS	84-89	28.5
	TOTAL	$1,569.4

SENATOR LAUTENBERG: Could the rail modernization program be formularized? If so, how?

ANSWER: Yes. It would be very easy to formularize the rail modernization program by using the Section 9 formula rail factors. These factors approximate the historical distribution of these funds as well as matching the needs as estimated in the Rail Modernization Study.

SENATOR LAUTENBERG: Could the bus program be formularized? If so, how? If not, why not?

ANSWER: At current program levels, it is not as easy to formularize the bus program as the rail modernization program. It would be possible to use the Section 9 formula factors. However, an important use of the the bus program is to address large one time needs such as bus maintenance facilities. If the formula program level were large enough and if the gas tax funds were the source of the formula funds, then local areas could use their formula funds over the life of an authorization to generate sufficient resources to deal with large one-time needs. We are now exploring these possibilities in developing our reauthorization proposal.

SENATOR LAUTENBERG: How can UMTA and Congress ensure that, when funding highway and transit projects, we eliminate the existing bias in the program structure (matching ratios, flexible funds, etc.) between the two programs?

ANSWER: We believe that if matching ratios are the same and if funds from the Federal Highway and Transit programs can be used for either purpose that it is possible to present local decisionmakers with an unbiased program choice.

It is equally important, however, that local funds be equally as unbiased or the changes in Federal funding availability will not result in a fully unbiased situation. To do so, State and local restrictions, such as those which limit the use of gas tax receipts to use on highways alone, should be revisited.

INTERSTATE TRANSFER-TRANSIT

SENATOR LAUTENBERG: Was the proposal to fund the interstate transfer program out of the highway trust fund a policy recommendation, or driven by the budget and a desire to reduce the amount of general funds used?

ANSWER: It is a policy recommendation. We believe that the remaining $512 million cost to complete Interstate Transfer Grant-Transit projects should be funded from trust fund resources. Specifically, both highway and transit Interstate Transfer projects should be funded from the source from which the original highway projects were to funded --- the Highway Account of the Highway Trust Fund.

It is also a long-standing Departmental policy to maximize user fee funding and minimize funding derived from the general revenues to the Treasury.

SENATOR LAUTENBERG: Now that this administration has rejected the previous administration's proposal to distribute the transit trust fund by formula, would it support funding the transfer program from the transit trust fund rather than the highway trust fund?

ANSWER: In the last year of our authorization, our FY 1991 budget request for formula grants and interstate transfer is based on existing legislation. For the FY 1992 reauthorization, however, we are considering a formula allocation of the Mass Transit Account. We have not abandoned the concept of formula allocation of the Trust Fund resource.

We do not believe that it is appropriate to use the Mass Transit Account to cover the Interstate Transfer Grants--Transit program. The entitlement to these funds was created by urbanized areas substituting transit projects for highway projects. Thus, it is appropriate that highway funds from the Highway Account of the Highway Trust Fund be used to liquidate these entitlements.

SENATOR LAUTENBERG: How did you arrive at the estimated $150 million in Interstate Transfer-Transit grant obligations in 1991?

ANSWER: UMTA estimates a funding level sufficient to cover existing Full Funding Contracts plus a reasonable amount to continue the program in an orderly fashion.

Existing FFC's scheduled to use Interstate Transfer funding in Fiscal Year 1991 are Chicago (Rail Cars) - $9.3 million and Baltimore (Metro - Section C) - $58.8 million. There would also be funding available for the other 15 withdrawal areas including New York City. New York, for the most part, has been using its Interstate funding on Rail Modernization projects.

Therefore, UMTA estimates a total of $150 million would be obligated for the Interstate Transfer program in Fiscal Year 1991.

ADMINISTRATION'S REAUTHORIZATION PROPOSAL

SENATOR LAUTENBERG: What provisions in this reauthorization uniquely identify it as a proposal from this administration? (In contrast to recent administration proposals to cut transit.)

ANSWER: Our proposal will follow the principles laid out in the National Transportation Policy, announced by President Bush on March 8. These include: increased reliance on user fees, and a reduced use of General revenues; increased formula availability of funds to ensure greater predictability and stability; a focus on ensuring that the existing infrastructure is maintained; an effort to leverage more State and local funding with the Federal funds provided; more local flexibility in the use of funds, including the possibility that some highway and transit funds can be used interchangeably; and increased attention to planning and research to assure that decisionmaking is improved and technology is enhanced.

ADMINISTRATION'S BUDGET REQUEST

SENATOR LAUTENBERG: In developing the request for mass transit funding, what was the most important concern -- the needs of transit or the budget deficit?

ANSWER: The major rationale for our proposal to eliminate operating assistance is the Federal policy that operating decisions are made locally thus operating costs are a local responsibility. However, budget deficit concerns were equally important. An additional benefit of reducing operating assistance is that, since operating funds spend out faster than capital funds, it is a much more effective way to cut outlays when attempting to meet budget deficit reduction targets.

At the same time, there is evidence that the availability of Federal operating subsidies makes it easier at the local level to permit costs to escalate and for the fare levels to be set lower than otherwise appropriate. The negative impact of the subsidies is reinforced by recent evidence which indicates that the cap on operating assistance in 1983 and reductions since then have resulted in a stabilization of cost increases. Between 1984 and 1988, after the cap took effect, unit operating costs remained about the same in real terms.

SENATOR LAUTENBERG: What specific evidence do you have that the cities over one million in population could or would be in a position to make up the operating assistance that you propose be eliminated?

ANSWER: However difficult, it is absolutely essential that States and local jurisdictions fully share the burden to support transit systems. In fact, States have increased their share of operating costs from 14 percent in 1981 to 18 percent in 1988, an increase from $929 million to $2,553 million. The local share of operating costs has increased from 27 percent to 33 percent, from $1.8 billion in 1981 to $4.5 billion in 1988.

In the absence of a full-fledged and fair intergovernmental partnership among local jurisdictions and the State, even the smallest financial burdens can seem onerous. At the same time, small challenges can be the way to gradually work toward partnership on bigger issues.

SENATOR LAUTENBERG: How much would these cities lose, and what percent is this of their overall operating costs?

ANSWER: Areas over one million have an operating assistance cap of $508 million in FY 1990. On average, these areas cover about 5.2 percent of their operating costs with Federal operating assistance. In 1987, operating assistance as a share of total operating costs in the areas over 1 million varied from almost nothing in Dallas to 27 percent in Buffalo and San Juan. In Baltimore the share was 8.7 percent. In New York (including Northern New Jersey it was 2.8 percent. In Washington, D.C. it was 4.6 percent.

Our proposal to cut operating assistance would reduce Section 9 assistance by an amount approximately equal to the operating assistance caps. However, because we must use the Section 9 formula, not the caps themselves, to apportion this cut, the amount cut is not exactly the same; in some areas (New York, Chicago, Philadelphia, San Francisco, Washington, Boston, Houston, Pittsburgh, San Diego, Seattle and Portland), the cut is more than the cap; in the others it is less. These cuts would range from 3.7 percent of total operating costs (in New York) to 11 percent of operating costs in San Diego, Fort Lauderdale and San Juan.

SENATOR LAUTENBERG: If cities use the maximum amount allowable by law, doesn't this argue that the cities (regardless of size) are dependent on those funds?

ANSWER: It is to be expected that areas will attempt to use the resources available to them as quickly as possible. Operating assistance is used to cover current costs which cannot be postponed, as can some capital expenditures. How dependent areas are on Federal funding is more a function of the share of local budgets which are covered by Federal funds. As noted, the areas over one million are less dependent than the smaller areas since they obtain a smaller share of their budget from the Federal government. We continue to believe that these agencies have the capability of replacing these funds and/or cutting costs sufficiently to deal with the elimination of operating assistance without a great deal of disruption.

In fact, States and cities have more than made up the reduction in Federal operating assistance between 1981 and 1988. During this period, Federal operating assistance declined from $996 million to $860 million while State assistance increased from $929 million to $2,552 million and local operating assistance increased from $1,805 million to $4,551 million.

SENATOR LAUTENBERG: What do you estimate will be allocated for "air quality" spending, and how much for accessibility?

ANSWER: These figures have not been estimated at this time, in order to provide local planners and transit operators the maximum flexibility in determining their own priorities. In communities where air quality is poor but service to the disabled is good, we would expect the greater part of any assistance to be used for air quality measures. In other areas where air quality is very good but service to the disabled is poor, say in a low density rural district, we would expect to see the bulk of expenditures allocated to provisions of the Americans with Disabilities Act. On a nationwide basis, we are estimating Federal expenditures, for planning purposes, of $75 million annually for provisions of the Clean Air Act, and about $10 million per year for incremental costs associated with the Americans with Disabilities Act.

We have determined, however, that the cost of equipping transit buses with lifts, at an annual rate of 1,700 buses per year, will cost about $10.2 million. Lift-equipping rail cars would be significantly more, possibly in the range of $100,000 per car. For station and facilities modifications we have no cost estimate, nor can we estimate the total cost of any required paratransit service. All of these costs will depend on local decisionmakers and their perceived needs.

Air quality costs will be difficult to estimate, as there is a very broad range in cost and effectiveness between the different alternatives. Therefore, we will not allocate before the fact spending for clean air and for accessibility. In this way, we allow the local communities to allocate their funds and meet their own needs as they think best.

SENATOR LAUTENBERG: Since these are discretionary funds, what criteria are you planning to use in allocating these funds?

ANSWER: We do not intend to use any special or new criteria in allocating the Section 3 bus funds. We intend to use this discretionary funding to cover the incremental costs of providing, or converting, facilities and equipment for accessibility and to meet the clean air standards. Therefore, as in an allocation of any discretionary funding, we will look at the grantee's use of its Section 9 apportionment. We will also look at the project costs and the particular technology being proposed, and we will meet the needs specified as far as Section 3 will allow.

SENATOR LAUTENBERG: How much of the $10 million requested for research, training, and human resources will be spent in the clean air and accessibility areas?

ANSWER: UMTA is planning on spending in the area of $1.5 million for its Clean Air Program, which includes its Methanol Bus Demonstration program, Alternative Fuels Initiative (AFI), and Clean Diesel Engine System program. The Clean Air

Program is designed to aid the transit industry in the testing and evaluation of the necessary technology to meet the EPA standards and requirements of the Clean Air Act amendments.

Of the $1.5 million, $1.25 million is allocated to the AFI program for continued support for facility planning and design, safety assessments, establishment of safety requirements and alternate fuel handling and use guidelines, data collection and evaluation, information dissemination and outreach activities, and general technical support.

The remaining $250,000 is for the Clean Diesel Engine System program, for the continued investigation of diesel particulate trap systems as well as retro-fit kits to improve the emissions from existing engines.

UMTA plans to allocate approximately $500,000 to assist in implementing the American with Disabilities Act. Activities under consideration include a determination of the state of the art of transportation services for disabled persons, assessments of the needs of visually and hearing impaired persons and the needs of mentally impaired persons in order to make transportation facilities accessible and usable by these segments of the population, assessments of the training requirements for both the disabled population and transportation providers to improve accessibility, and to determine what techniques exist for evaluating the utility of paratransit services for disabled persons as compared to fixed route transit. Once the Act is passed, UMTA will examine the various requirements to determine where hardware and information gaps exist and attempt to fill these in order to assure a timely implementation of the Act.

Final funding levels are, of course, dependent upon the legislation actually enacted and the actual appropriations.

SENATOR LAUTENBERG: Do UMTA funds allocations for the requirements of the Clean Air Act and Americans with Disabilities Act come anywhere close to meeting the expenditures that are likely to result from implementation of these acts?

ANSWER: While we can, with some certainty, predict many of the costs of individual components of compliance, for instance about $10,000 per lift for a transit bus, we have no way to predict the actions of local communities or the priorities they will assign to meeting clean air needs vs. the needs of their disabled community. In addition, data we have collected indicates a range of costs for Alternative Fuel garages nationwide, for transit buses, between $475 and $960 million. We do not yet have cost data associated with rural transit operations.

While Federal funding will probably not be able to fully cover the cost of the proposed Clean Air and Americans with Disabilities legislation, we expect State and local governments, who will benefit from this legislation and are in a better financial position than the Federal government, to meet these needs.

SENATOR LAUTENBERG: What is UMTA's estimates of the total costs associated with these programs?

ANSWER: Battelle Laboratories and Gannett Fleming Transportation Engineers conducted a study for UMTA to estimate the capital cost impacts for bus transit facilities associated with a nationwide conversion to either methanol or compressed natural gas (CNG) fueled buses.

The total national cost of converting transit bus facilities to methanol is estimated to be between $346 million and $735 million. The cost of conversion to CNG is estimated to be between $420 million and $960 million. The major difference in the conversion costs for the two fuels results from an increased cost for explosion-proof electrical improvements for CNG bus storage and maintenance facilities. The upper bound on costs assumes all inside bus storage. The lower bound on costs assumes all outdoor bus storage.

TRANSIT TRUST FUND

SENATOR LAUTENBERG: What is the cash balance in the transit trust fund?

ANSWER: The actual cash balance of the Mass Transit Account at the end of fiscal year 1989 was $6.05 billion. The cash balance in the Mass Transit Account as of January 31, 1990, was $6.59 billion.

SENATOR LAUTENBERG: What are the outstanding obligations against these funds, and how much is truly unencumbered?

ANSWER: Of the $6.05 million balance in the Transit Account, $3.16 billion or 52 percent has already been obligated, but not yet disbursed.

Consistent with appropriations actions, $0.65 billion is targeted to be obligated. The unencumbered portion of the cash balance is $2.24 billion, or 37 percent.

SENATOR LAUTENBERG: How much does the penny annually generate?

ANSWER: The Treasury Department estimates each year revenue for the Motor Fuel Tax for the penny, whose proceeds are directed to the Mass Transit Account. For 1990, the Treasury estimates the penny to generate $1.3 billion. By the time of reauthorization in 1991 and beyond, we estimate the penny to generate about $1.4 billion, all things held constant.

OVER MATCH

SENATOR LAUTENBERG: Which transit authorities are now providing more than is statutorily required, and for what projects is the overmatch being used?

ANSWER: A number of bus projects have been submitted with overmatch components. In the rail modernization program Boston, New York, Connecticut and Chicago are using significant amounts of overmatch. Attached is a list of major new starts projects indicating the degree of overmatch they are providing:

NON-FEDERAL SHARE OF SELECTED NEW START PROJECTS OR PROGRAMS

PROJECT/PROGRAM	TOTAL COST (MILLION)	NON-FEDERAL SHARE
Atlanta: A regional heavy rail system under construction since the mid 1970's with 33 miles open to revenue service and an additional 10 miles under design or construction. (Total cost represents phases A through D).	$2880	47%
Houston: A 20 mile rail transit system connecting the CBD and other major activity centers. In alternatives analysis.	$1,100	50%
Dallas: A 20 mile, 3-line LRT system centered on the CBD. In alternatives analysis and/or PE.	$650	81%

PROJECT/PROGRAM	TOTAL COST (MILLION)	NON-FEDERAL SHARE
Los Angeles: A regional light and heavy rail system (18 miles of heavy rail from the LA CBD to the San Fernando Valley, a 22 mile light rail line between the LA and Long Beach CBD's and a 22 mile automated rail link in the median of the Century Freeway). Forty-nine of sixty-two miles are under construction.	$5,166	59%
San Francisco/Bay Area: A regional rail expansion program, including BART, light rail and commuter rail extensions. In various stages of project development.	$2,100	70%
Chicago: A multi-legged light rail collector/distributor system wholly within the CBD. In alternatives analysis.	$600	67%
Seattle: A 1.6 mile dual propulsion CBD bus tunnel. Under construction.	$394	50%
Honolulu: A 15 mile light rail line in the Central Corridor. In alternatives analysis.	$1,300	70%
San Diego: A comprehensive, regional light rail system. Five extensions and/or new lines are in various stages of development, only one of which is being advanced for Federal funding.	$800	70%
New York: The Queens local express connection, a one quarter mile tunnel to connect the Queen subway with the recently opened 63rd street tunnel. In alternatives analysis.	$450	50%
Santa Jose: A 20 mile LRT line in the Guadalupe corridor. The north leg is open to revenue service with the south leg scheduled to open by August 1991.	$550	50%
Baltimore: MTA is constructing a 22.5 mile central corridor LRT line with no federal funds. Three extensions totalling 6 miles ($82 million) are in alternatives analysis.	$446	90%
Cleveland: A 6 mile heavy rail line relocation project between the CBD and University Circle. In alternatives analysis.	$570	50%
Salt Lake City: A 20 mile LRT project in the I-15 corridor. In alternatives analysis.	$200	50%

SENATOR LAUTENBERG: How do you administer "overmatch," i.e., how are transit authorities rewarded for proposing over match?

ANSWER: In the bus category, overmatch is a factor in the selection process. In the rail modernization category, grantees who overmatch will be given more flexibility in the management of those funds. In the new starts category, preference is also given to projects which have significant overmatch.

SENATOR LAUTENBERG: How do you guarantee that a transit authority will stick to their "overmatch" proposal?

ANSWER: Once an overmatch project is selected for funding, the grant contract and/or the full funding agreement will contain provisions recognizing the overmatch. UMTA would take appropriate action towards grantees who do not follow the requirements of the grant contract.

ADMINISTRATIVE EXPENSES

SENATOR LAUTENBERG: The additional personnel requested (10) are for project management oversight staff in the field offices. What do these people to do?

ANSWER: Over the past 3 to 7 years, UMTA staff has been unable to make onsite visits to the smaller and medium-sized grantees to assure that Federal funds are being used for the purpose for which approved. This is because of a combination of a lack of staff and travel funds. Other responsibilities of this staff include:

- Providing assistance to grantees in the development of projects for Federal assistance.
- Meeting with grantees to determine the progress of projects.
- Assuring that utilization of Federal funds is consistent with Federal regulations and program policies.
- Following up with grantees to assure that deficiencies uncovered during triennial reviews and audits have been corrected.

SENATOR LAUTENBERG: How many are now involved with project oversight -- in Washington, in the region?

ANSWER: UMTA has no Headquarters positions engaged in the oversight of grantees per se. The UMTA Headquarter staff is responsible for the "Project Management Oversight Program" (PMOP) which was first authorized in the FY-86 appropriations. The PMOP is a program which utilize highly qualified engineering firms to assist UMTA in the oversight/monitoring of the construction of major capital projects being executed by grantees. The PMOP focuses on one aspect (construction of major capital projects) of UMTA's very broad oversight/monitoring responsibilities.

The UMTA regions are authorized 142 positions for FY 1990. All of these positions are involved in the oversight of grantees.

SENATOR LAUTENBERG: By law, UMTA is allowed to withhold one-half of one percent of capital projects' funds for a variety of oversight functions. How is this money spent?

ANSWER: To date we have obligated approximately $38 million of the set-aside funds and expended approximately $24 million. These funds are used to pay competitively procured consulting firms to provide oversight of UMTA projects.

SENATOR LAUTENBERG: How much is for outside contractors?

ANSWER: Funds from the one-half of one percent set-aside program can only be used to pay for services performed by outside contractors. To date, approximately $38 million has been obligated to outside contractors.

SENATOR LAUTENBERG: How much of the one-half of one percent has been collected over the years, and how much has actually been spent on oversight?

ANSWER: To date we have reserved approximately $67 million under the set-aside program. Of this amount we have obligated $38 million and expended approximately $24 million.

SENATOR LAUTENBERG: UMTA is now allowed to use the one-half of one percent set-aside for financial and safety-related oversight. How do you see the set-aside being used in 1991 and the out years?

ANSWER: Based on the FY 90 Appropriations Act the set-aside funds can now be used to hire contractors to perform safety reviews, procurement reviews, management reviews, financial reviews and audits (Section 23(h), UMT Act). In FY 91 we anticipate that the majority of set-aside program obligations will be under Section 23(a), the Project Management Oversight Program. We are now initiating programs to provide contractor support, under Section 23(h), in the areas of procurement reviews, triennial reviews, safety reviews and financial reviews.

TAX ISSUES

SENATOR LAUTENBERG: The American Public Transit Association (APTA) has called for a 7 cents per gallon gasoline tax to provide the needed resources for transit. How do you feel about that?

ANSWER: We are opposed to this proposal. First, the President has made it clear that he is opposed to new taxes such as this proposal. Second, the amount of funding which would be generated by this amount is well in excess of amounts which the Federal government should be spending on transit. While we support continuation of a Federal role in transit, we believe that the Federal government should play a supportive, not leading role, in this area. If transit funding of this level is necessary, State and local governments should take the lead.

SENATOR LAUTENBERG: Did the administration consider using "tax policy" as a way of improving air quality; reducing traffic congestion; and, reducing dependence on imported fuel? Is so, why has it so far rejected calling for increased fuel taxes?

ANSWER: We have been able to arrest the overall decline of transit with capital investments and large subsidies, but complementary policies to remove subsidies from inefficient auto use are essential to support transit investments. No single approach, such as high gas prices due to increased fuel taxes, would be nearly as effective in encouraging transit use as a combination of efforts to level the playing field among modes, such as congestion pricing of highways, intermodal funding, increasing pricing of parking, stronger regional transportation decisionmaking, etc.

We are now exploring how to deal with the unfairness inherent in the differing tax treatment of employer provided free or subsidized parking versus employer paid transit passes or other incentives by employers for high occupancy vehicle use. Right now, employees can be provided free parking without paying taxes on it, no matter what the value. In certain areas, this can amount to as much as $200 per month. At the same time, if an employer provides more than $15 per month to an employee in the form of a transit pass or other incentive, the full amount is subject to income tax.

SENATOR LAUTENBERG: APTA, along with others, has also called for equity regarding employer subsidized parking versus subsidized transit. What is the administration's position on this proposal?

ANSWER: The National Transportation Policy states "Federal programs and policies must treat modes and carriers even-handedly", therefore we too would support equity in the treatment of the two modes. However, this is a complex issue that we are currently studying. It is not clear at this time what equitable treatment would mean nor is it clear how equity should be achieved. It is clear that the cost of parking is one of the key factors in the decision to drive or take transit. Employers that have taken advantage of the limited transit subsidies currently available to employees have found it a worthwhile way to reduce congestion, air pollution and parking expense.

DRUG TESTING IN TRANSIT

SENATOR LAUTENBERG: On January 19, a U.S. Court of Appeals for the District of Columbia rejected UMTA's drug regulations on grounds that it has exceeded its authority by imposing uniform, national requirements. What have you done in response to this decision?

ANSWER: We have taken a number of actions. First, the Administration has submitted legislation to Congress that would authorize UMTA to reissue its anti-drug regulation. That legislation has been introduced in the House and in the Senate. Second, we have encouraged our grantees to continue their drug testing programs to the extent possible under local law. Finally, we have made a number of technical assistance grants to assist States in developing local anti-drug programs.

SENATOR LAUTENBERG: What are your plans regarding drug testing in the transit industry?

ANSWER: We are confident that Congress will act upon the legislation we recently submitted that would authorize UMTA to reissue its anti-drug regulation. In the meantime, we are strongly encouraging our grantees to continue their drug testing programs to the extent possible under local laws.

SENATOR LAUTENBERG: What are local transit authorities now doing in this area, absent specific Federal regulation?

ANSWER: Those transit authorities that had drug testing programs in place before the UMTA rule required such programs appear to be keeping those programs in place. Most other grantees apparently have not continued drug testing programs and are waiting to see what happens to the legislation now before Congress that would authorize UMTA to reissue its regulations.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA)

SENATOR LAUTENBERG: In addition to appropriated funds for construction, Metro has received other federal assistance. Please detail federal assistance to WMATA.

ANSWER: WMATA has received Federal assistance in the following amount and from the following sources (dollars in millions):

Direct appropriations (1/3-2/3)	$1,147.0
E&H facilities (20%-80%)	52.0
Arlington Cemetary Station (100%)	7.4
Federal-Aid Urban Systems (10%-90%)	26.5
Interstate Transfer Grants-Transit	2,156.8
Stark-Harris (20%-80%)	1,591.8
SUBTOTAL - FUNDS APPROPRIATED TO DATE	$4,962.5

Interstate payments on Bonds (1/3-2/3)	$1,965.4
Principal payments on Bonds "	664.7
SUBTOTAL - BOND OBLIGATIONS	$2,630.1
TOTAL (FOR 89.5 MILE SYSTEM)	$7,720.8

SENATOR LAUTENBERG: The administration does not request "construction claims" funding. Why not?

ANSWER: WMATA has sufficient, previously appropriated funds to meet any construction claims which might arise in FY 1991. UMTA has scheduled approval of the funds remaining in the Stark-Harris authorization for fiscal years 1992 and 1993. These outyear funds will adequately cover their construction claims reserve requirements.

SENATOR LAUTENBERG: Aren't construction claims allowable reimbursable costs under the full funding agreement?

ANSWER: Yes, construction claims and contingencies costs are provided for under the full funding agreement.

SENATOR LAUTENBERG: Mr. Clymer, do you see a difference as to whether WMATA is reauthorized as a general fund program, versus a Section 3 trust fund program? If so, what are the differences?

ANSWER: Essentially, there is no significant difference in the methodology of delivery of Federal funds for the Metrorail construction program. The annual amount of Federal funds available to WMATA is controlled by the limitations of the transportation appropriations whether derived from the general fund or the transit trust fund.

If Metrorail construction funding were to be continued under the Section 3 "New Starts" program, as it exists today, UMTA would enter into a full funding agreement with WMATA which would establish by agreed budget their annual funding requirements. Although subject, of course, to annual appropriations, UMTA would support the funding level required by WMATA to meet their construction program.

Even though WMATA has had a special Federal authorization since the enactment of the Stark-Harris Act in 1979, they have not received Federal appropriations equal to their annual requests due to Federal budgetary pressures.

Thus, experience demonstrates that a special authorization does not quarantee a specific level of annual appropriations such as the $200 million which WMATA proposes under the pending reauthorization legislation.

SENATOR LAUTENBERG: What is the balance in the WMATA account? How much is obligated and how much is unobligated?

ANSWER: There is $108 million remaining in the Stark-Harris authorization which has not been appropriated.

WMATA currently has $375.1 million of appropriated and UMTA approved funds which have not yet been expended or obligated by contract.

QUESTIONS SUBMITTED BY SENATOR BYRD

SENATOR BYRD: Could you tell me what research and demonstration initiatives are currently under way or planned in this area of transportation and employment in rural areas?

ANSWER: We are completing research and demonstrations initiatives in the area of inter-city bus feeder service in rural and small urban areas. This joint project with the Community Transportation Association of America and the Greyhound Lines is exploring the feasibility of connecting existing rural transit systems with private inter-city bus systems.

Under an UMTA grant the International Taxicab Association has developed contracting workshops for public and private rural and small urban transit providers. The workshops are being conducted at various sites around the nation.

The UMTA National Easter Seal Society (NESS) Project is currently looking into the area of securement devices. NESS will look at the state-of-the-art in this area and solicit advice from the Project Steering Committee. This Committee is made up of representatives from various disabled organizations. It is hoped that this project will enhance transit-related activities for the transit disadvantaged patron in both rural and urban areas.

SENATOR BYRD: I was encouraged that the administration is supporting the set-aside of additional funds for the Section 18 small urban and rural program. As you know, this practice was first initiated by the Senate subcommittee and I have supported this for the past several years. Why is the administration now supporting this procedure?

ANSWER: We have proposed the set-aside to permit the Section 18 program funding level to remain comparable with that of the past several years. This program serves largely a transit dependent population who have few mobility options. We also believe these rural and small urban communities would have a difficult time raising local funds to make up the difference if the set-aside were not provided.

SENATOR BYRD: How much would West Virginia receive if the normal 2.93 percent set-aside for the rural program were applied to the administration's Section 9 budget request, versus the enhanced program being proposed?

ANSWER: The Administration's FY 1990 Budget request of $65 million for the Section 18 program would result in an apportionment of $1,128,530 for the State of West Virginia. If the special set-aside of $32.5 million were not added to the 2.93 percent formula amount for Section 18, the budget level for Section 18 would be $32.5 million. West Virginia's FY 1990 apportionment from this amount would be $564,265.

SENATOR BYRD: For the record, provide a listing of the funds received by West Virginia under the rural technical assistance program and the elderly and handicapped program.

ANSWER: The following are the annual allocations of rural technical assistance funds (RTAP) and Section 16(b)(2) funds allocated to West Virginia over the life of these programs.

	RTAP	Section 16(b)(2)
FY 75		$261,000
76		283,000
77		283,000
78		321,000
79		261,000
80		261,000
81		321,000
82		321,000
83		321,000

84		321,000
85		321,000
86		337,000
87	$78,821	387,566
88	75,132	388,378
89	78,821	386,701
90	78,792	386,720
	$311,566	$4,775,051

QUESTIONS SUBMITTED BY SENATOR HARKIN

SENATOR HARKIN: IN July 1988. Iowa submitted a consolidated statewide Section 3 grant application. This innovative method of combining the requests of a number of transit systems. especially relatively small systems has, in my view considerable logic and benefits. Working together with the state DOT. smaller systems can develop proposals which maximize the efficient use of limited federal funds. I believe that this type of grant application method should be encouraged. The Iowa grant was approved in September 1988.

The Iowa Department of Transportation submitted a similar application on behalf of a number of transit systems in July 1989.

Will UMTA view consolidated. coordinated Section 3 grant applications favorably?

What is the schedule or timetable that UMTA expects for the decision making process on Section 3 grants this year?

ANSWER: Yes. we do view applications which have been coordinated and consolidated by states favorably. We encourage states to take an active role in transit.

The timetable or schedule for Section 3 grants utilize the full Fiscal Year. Some of our Section 3 grant decisions are based on how grantees use their Section 9 apportionment. Therefore, some of our Section 3 decisions occur in the latter part of the Fiscal Year after Section 9 grants have been awarded.

SENATOR HARKIN: In the FY 90 Labor-HHS Appropriations bill, funds were provided to establish a transportation assistance program serving human service agencies providing transit needs to their clients. I understand that the

Department of Health and Human Services and DOT have developed an agreement whereby those funds are to be transferred to UMTA in order to implement that initiative. What is the current status of that initiative?

ANSWER: Recently, the Department of Health and Human Services transferred through the use of an Interagency Agreement $246,000 to the Urban Mass Transportation Administration. This funding has been utilized to develop a cooperative agreement entitled "Human Service Transportation Coordination and Assistance Project." The grantee for the project is the Community Transportation Association of America. The cooperative agreement is currently in the UMTA review process.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

SENATOR DOMENICI: The Gallup Multimodal Transportation and Multicultural Exhibit and Event Center is a highly promising project that is bringing together the funding and interests of many groups including UMTA, the city of Gallup, McKinley County, the state of New Mexico, Amtrak, Greyhound, and many others. Less than 20 percent of the funding for this project will come from UMTA, the rest provided by state and local government and private sources. This is the type of project the President and Secretary Skinner have encouraged in the recently released national transportation policy. I commend the goal of promoting intermodal transportation and believe this project reflects a positive step toward that goal.

ANSWER: The New Mexico State Highway and Transportation Department has filed an application with UMTA for financial assistance in the amount of $415,495 to renovate the AT&SF Railway Depot into a multimodal transportation and cultural center facility.

STATUS: The AT&SF Railway company is in the process of negotiating an agreement with the State. Also, the State is in the process of doing an environmental assessment of the project. Once these two items are completed, UMTA will be in a position to make a determination with respect to the project.

SENATOR DOMENICI: This nation keeps moving toward further urbanization and the results of the 1990 Census will most likely show a number of cities have passed the 50,000 population mark. This would increase the number of cities, including Roswell, New Mexico, that would qualify for Section 9 UMTA grants. Will additional funding be provided for this program or will more cities be getting a thinner piece of the pie?

ANSWER: We believe that there will be about 60 areas designated as urbanized areas as a result of the 1990 Census. About one half of the new urbanized areas will already have transit service. We expect that we will be allocating section 9 funds to these areas in the first fiscal year after the Census Bureau provides us with the necessary data. In addition, we will also be providing them with an allocation of section 8 planning funds.

The budget does not providing additional Section 8 or Section 9 resource explicitly to deal with these new areas. It should be noted that because of the program levels and funding formulas, these areas are likely to get an increase in the amount of transit funds available to them when they become urbanized compared with the amounts available to them under Section 18.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

SENATOR HATFIELD: When we met last month we discussed several projects in the Portland Metropolitan area for which Congress had earmarked funding or included specific report language in the reports accompanying the FY 90 Transportation and Related Agencies Appropriations bill. I believe we emerged from that meeting with a mutual understanding concerning both the projects and the time frames for proceeding with them. Do you agree?

ANSWER: Yes. On March 28, 1990, I wrote to you to document what I believe to be the understandings we reached at our meeting, particularly with respect to:

1) The existing Westside project, between downtown Portland and 185th Avenue;

2) That portion of the Westside project between 185th and Hillsboro;

3) Southeast Portland (Interstate 205 and the Milwaukie corridors); and

4) The Gresham joint development portion of the Tri-County Metropolitan Transportation District's proposed Project Breakeven.

SENATOR HATFIELD: With regard to the Westside light rail extension project, there was a disagreement between the Tri-County Metropolitan Transit District of Oregon (Tri-Met) and UMTA concerning the ridership numbers, specifically whether or not these numbers should be based on Tri-Met's actual operating experience with its existing light rail line. Do you recall that discussion?

ANSWER: Yes, Senator, I do.

SENATOR HATFIELD: We also agreed that Tri-Met and UMTA were to meet in twenty days to identify the specific issues in disagreement and that there would be closure on this matter within sixty days. Do you expect to reach agreement with Tri-Met on this matter within the sixty-day time frame?

ANSWER: As I recall, we agreed that, within 20 days, UMTA would identify for Portland the outstanding travel demand issues, including ridership issues, to be resolved before UMTA could concur with the travel demand estimation approach for the Westside Supplemental Draft Environmental Impact Statement (SDEIS). On March 16, 1990, UMTA wrote to Mr. James Cowen, the General Manager of Tri-Met, and we are waiting for Tri-Met to respond to our comments. The 60-day time frame can be met if Tri-Met addresses our concerns quickly.

SENATOR HATFIELD: The ridership numbers are critical to the submission of an Environmental Impact Statement (EIS), which must be approved by UMTA prior to Tri-Met pursuing further engineering work on the project. You recognized the need for immediate approval and agreed to expedite the approval process. When can I expect to have the EIS and the grant for final preliminary engineering work approved?

ANSWER: The environmental document currently under review in UMTA is a Supplemental Draft Environmental Impact Statement (SDEIS). In view of the interest of the Committee, we are giving that review our immediate attention.

Once the review is completed and UMTA comments are addressed by Tri-Met, we expect that Tri-Met will publish and circulate the SDEIS and hold a public hearing. Following the public hearing, Tri-Met will issue a preferred alternatives report. This will eventually lead to the publication of a Final EIS. Timing of publication will depend to a large extent on Tri-Met's activities. From recent conversations with Tri-Met staff, we understand that they will request an additional $600,000 of Section 9 funding to undertake additional preliminary engineering work in CY 1991. (This is in addition to the $1,616,000 of FY 1990 Section 9 funding approved by UMTA on April 9, 1990.) Publication of a Final EIS would not occur until that work is complete. In addition, a financial plan needs to be completed which identifies adequate funding for the project. Negotiation of a full funding grant agreement (FFGA) for final design and construction could follow the completed environmental process and selection of a locally preferred alternative. We estimate, based on the information from Tri-Met staff, that FFGA negotiations could not commence before mid-CY 1991.

SENATOR HATFIELD: As you know, the Congress directed UMTA to allow alternatives analysis (AA) and preliminary engineering work on the 185th to Hillsboro portion of the Westside LRT project to proceed independent of and concurrent with the preliminary engineering work already underway on the downtown Portland, Oregon to 185th portion of the extension. We discussed project scope and grant approval of the AA to Hillsboro, Oregon and you agreed to approve it immediately. When can the region expect UMTA approval of the region's section 9 grant request and project scope for the AA to Hillsboro?

ANSWER: Both the project scope and grant request have been approved. On April 5, 1990, UMTA sent a letter to the Metropolitan Service District (METRO) in Portland finding the scope of work generally acceptable for undertaking the scoping process and approving METRO's request to enter into alternatives analysis for that portion of the Westside Corridor between 185th Avenue and Hillsboro. On April 9, 1990, UMTA approved a Section 9 grant to the Tri-County Metropolitan Transit District for $6,655,806. This grant provided funding for, among other things, a planning project for $518,400 to support an alternatives analysis in the Westside Corridor from 185th Avenue to Hillsboro.

SENATOR HATFIELD: Another issue raised during our meeting was approval of AA on the Interstate 205 and Milwaukie corridors in the Portland Metropolitan region. Based on our meeting, you agreed to permit the region to proceed with a "first phase" AA that allowed the region to study both corridors so that the region could determine which corridor, if any, was the preferred location for the region's priority rail project behind the Westside. Once again, this decision was to be made within a sixty day time frame. Consistent with that understanding the region will be submitting a proposal, if it has not already, to proceed in this fashion. When can the region expect approval of this "first phase" AA?

ANSWER: Portland has not yet requested UMTA approval to enter into a phase one alternatives analysis, consistent with our discussion. We will of course give that request our immediate attention once it arrives. However, we understand that Portland will apply for an Interstate Transfer grant to support the analysis effort, and the timing of such a grant approval would depend upon the timing of Portland's grant request vis-a-vis UMTA's quarterly release process. For example, for a grant to be included in UMTA's September 30, 1990 approval cycle, the grant application must be submitted no later than July 2, 1990.

On March 30, 1990, UMTA wrote to the Metropolitan Service District, the Metropolitan Planning Organization (MPO) for the Portland, Oregon portion of the urbanized area, and to the Intergovernmental Resource Center, the MPO for the Vancouver, Washington portion of the urbanized area, to comment on their FY 1991 Unified Work Program. In that letter, we noted that the scope of work identified as the "I-205 Alternatives Analysis/DEIS" and the "Milwaukie Alternatives Analysis/DEIS" must be revised to reflect the phase one level of work agreed to in our meeting.

SENATOR HATFIELD: Finally, we reviewed the status of Project Break Even and securing approval of a grant for a joint development project involving the acquisition of land for a major shopping mall that would include the developer constructing a rail station to unite parcels of property on either side of the light rail line. When do you expect to proceed with the approval of this grant request?

ANSWER: This is a complex project, as explained in the response to another question about it. We have had extensive discussions with Tri-Met officials and staff over a period of approximately eighteen months. We currently anticipate that we will be able to define the extent of UMTA's participation and the terms under which it can be provided by late spring. Should this result in a remaining balance of earmarked funds, we believe they could be usefully applied to other mass transportation needs of Tri-Met.

SENATOR HATFIELD: Section 3(a)(1)(D) of the UMTA Act of 1964, as amended, authorizes the Secretary of the Department of Transportation to approve grants for transportation projects that "enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project" and which "enhance urban economic development or incorporate private investment including commercial and residential development." Among the "eligible costs" under this section is land acquisition. Under the Tri-Met proposal, the earmarked section 3 funds would not be used to construct any revenue producing facilities, but Tri-Met would receive the lease revenue returns from the ownership of the property. Given this legal authority, and the intention of the Congress that this is a joint development project, what precludes UMTA from approving the use of these earmarked funds for acquiring the land in question? Please identify the specific statutes of law or regulations that would preclude UMTA from approving a grant application from Tri-Met under this legal authority for a joint development project involving land acquisition for a shopping mall?

ANSWER: A project such as Project Break Even is eligible for funding under the authority of section 3(a)(1)(D) of the UMT Act. In determining an appropriate formula for cost sharing for such a project, UMTA must follow the statutory requirement that UMTA funds may only be used to fund those aspects of a project which are, as section 3(a)(1)(D) provides, "physically and functionally related to such mass transportation project." In this connection, UMTA currently is negotiating with Tri-Met regarding the appropriate scope of the project to be funded by UMTA.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

STATEMENTS OF:

CARMEN T. TURNER, GENERAL MANAGER

BRIAN W. CLYMER, ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION

ACCOMPANIED BY:

WILLIAM BOLEYN, ASSISTANT GENERAL MANAGER FOR FINANCE

JOHN McELHENNY, ASSISTANT GENERAL MANAGER FOR DESIGN, CONSTRUCTION AND FACILITIES MAINTENANCE

INTRODUCTION OF WITNESSES

Senator LAUTENBERG. I would like to welcome Carmen Turner, General Manager of WMATA, a distinguished general manager, exhorted and extolled by newspaper editorials, people living in the area and those who claim a commonality with her roots from New Jersey and my home town of Montclair.

So, Ms. Turner, welcome. I am sure you liked the news that you heard from the House yesterday. Easy for them. They just said, OK, we are going to go ahead and continue. And then they throw it to the appropriators who are going to have to find the funding out of ever more spare resources.

So we welcome you and as usual look forward to your testimony. And then we will have a chance to hear Mr. Clymer make some comments, and then ask our questions.

Ms. TURNER. Thank you, Mr. Chairman and members of the committee. Let me introduce the Metro staff who are here with me this morning.

To my right, I have Mr. William Boleyn who is our Assistant General Manager for Finance and Mr. John McElhenny, our Assistant General Manager for Design, Construction and Facilities Maintenance.

It is always a pleasure to come before the committee and to present Metro's appropriation request.

Let me also say that we have been most appreciative of the opportunity to work with Brian Clymer. We have found him open and candid and certainly committed to public transportation. We look forward to a very healthy and wholesome working relationship with the new Administrator and with UMTA.

The Authority's fiscal year 1991 appropriation request is for a total of $200 million. That consists of $64.1 million in Stark-Harris funds, $135.9 million that is contingent upon enactment of reauthorizing legislation.

Before I go into that, just let me quickly summarize where we are with the operating system. As you know, we operate an integrated bus/rail system. That means that when we bring new lines on, we turn back the bus service so that we do not run expensive parallel service.

TODAY'S SYSTEM

Let me just show you what we are operating today. We are operating 70 miles. On the Red Line we operate from Silver Spring down through the city and on out to Shady Grove in Montgomery County. The Orange Line comes out of Vienna in Virginia on through the city and on out to New Carrollton in Prince Georges County. The Blue Line originates from National Airport in through the city and on out to Addison Road in Prince Georges County. Finally, the Yellow Line goes from Huntington in Virginia to Gallery Place/Chinatown in the center of the city.

I might point out that we also have a bus fleet of 1,600 vehicles which covers over 500 routes and travels approximately 175,000 miles each day.

Our cost recovery ratio projected for fiscal year 1991 is 76 percent on Metrorail, 32 percent for Metrobus. Our cost recovery ratio is 53 percent for the system. Ridership continues to grow. Metrorail ridership grew over 5 percent in 1989 with no openings. We carry in excess of half a million passenger-trips per average weekday. Metrobus ridership also continues to grow.

On Inauguration Day we carried a record 604,000 passenger-trips on the rail system, and when we open the new lines we expect ridership to grow by 7.5 percent above our normal ridership growth.

We have 19.5 miles that are under construction today. That will complete 89.5 miles of the adopted 103-mile system. We will quickly identify those for you. But, as Mr. McElhenny gets up to demonstrate where those lines are, let me say that you may recall that several years ago we negotiated a full funding agreement with the Urban Mass Transportation Administration that assured the administration that we could bring in the 19.5 miles within the balance of the Stark-Harris authorization. You will also recall that there were many discussions about estimates and whether or not we had sufficient funds. I am pleased to say that we will be bringing in the 19.5 miles within the Stark-Harris authorization.

Now, looking at the construction program, we are very pleased to say that we have two lines that will come in this year. We will be bringing into revenue service the line from Silver Spring to Wheaton on September 22. We will then bring in the line from Gallery Place to U Street; scheduled to begin service on December 1.

In addition to those routes, construction is taking place on the Blue Line from King Street to Van Dorn, and is planned for revenue service in early 1991. The Green Line from L'Enfant Plaza to Anacostia—that is in the inner city—is scheduled to begin service late in 1991. The outer Green Line going out from Fort Totten to Greenbelt in Prince Georges County is scheduled to begin operations in late 1993. By the end of 1993, we will have a total of 89.5 miles in revenue service built within the existing Stark-Harris authorization.

There remain to be built an additional 13.5 miles that will complete the adopted regional system. I will point out those segments very quickly. There is the inner Green Line from U Street to Fort

Totten. If you look at the map, you will see that we will be operating from Fort Totten to Greenbelt with a major transfer point at the Fort Totten station. We will be operating in the city from U Street down to Anacostia, so we have a major piece of construction between Fort Totten and U Street that must be built in order to have through service on that line.

On the Red Line we will complete the Red Line going out to Glenmont. That takes the system from Wheaton to Glenmont. On the Green Line we will have service from the Anacostia station to Branch Avenue and on the Yellow Line from Van Dorn to Springfield-Franconia. That will complete the full 103-mile adopted regional system.

Let me say that Metrorail is designed to operate as a whole, and we believe that it must be completed to be able to operate most efficiently and effectively. We believe that completion of the last 13 miles of Metrorail will take an additional 200,000 cars off the road each day, over and above the 300,000 cars that Metrorail takes off the road today.

There will be substantial environmental benefits associated with the completion of the system including almost 140 million gallons of gasoline that will be saved per year and 11 million tons of pollutants annually that will not contaminate the atmosphere. The remaining miles will serve some 400,000 Federal employees in this area, including major Federal employment centers at Andrews Air Force Base, the U.S. Bureau of Census, Suitland Federal Center, and the Springfield GSA Center.

The last 13 miles will serve many transit-dependent residents in the region. Completion will improve the quality of life and economic development throughout the region. Completion of the system will certainly enhance the operations of the system and allow it to work more efficiently by bringing in the needed yards. It will resolve a very serious problem by removing temporary terminals from residential areas.

Today, Metro has received $3.7 billion in Federal transit grants. In addition to this, the local governments in this region transferred to the system $2 billion in interstate highway funds; dollars that would have been spent on highways, if not transferred to mass transit.

The administration cites an additional $2.7 billion which are not grants, but a guarantee by the Federal Government on outstanding bonds, which are shared at a two-thirds Federal/one-third local match.

The bonds will not come due until the year 2013. When you look at the funds that have been provided to date for Metrorail, you will find that there is a Federal contribution of $3.7 billion plus $2 billion in interstate funds totaling $5.7 billion. In addition there is a commitment in out years for another $2 billion which will then total approximately $7.7 billion.

1991 REQUEST

As I stated earlier, we are requesting $200 million in fiscal year 1991 Federal funds. Of our total request, $64.1 million is for funds available from the Stark-Harris authorization. I indicated the remaining $135.9 would be contingent upon an enactment of legislation currently before the Congress.

Our fiscal year 1991 appropriation request for $64.1 million includes funds for project management, for startup activities for continuing construction activities, and for remaining construction claims costs. The $135.9 million we are asking for will fund design work for segments throughout the region that comprise the remaining 13.5 miles, real estate acquisition and the purchase of 40 additional cars. The sum of these two amounts, $64.1 million from Stark-Harris funds and $135.9 million, contingent upon enactment of new legislation, comprises our total request of $200 million for Metrorail construction in Federal fiscal year 1991.

In 1967, a Federal-local partnership to construct a rapid rail system for the national capital region was consummated. That partnership has endured through the construction of a total of 89 miles of quality rail facilities, of which the last 19.5 miles will be in revenue service by 1993.

On March 16, 1989, a bipartisan congressional delegation introduced S. 612 and H.R. 1463 authorizing additional Federal funds for Metrorail construction to be appropriated in increments of $200 million over a period of 11 years. I certainly want to express our appreciation to you, Senator Sasser, for the work that you have done in supporting our reauthorization. We also want to thank Senator Mikulski for her continuing support for Metrorail on all fronts.

The legislation, the National Capital transportation amendments, was voted favorably out of the House Committee on the District of Columbia on March 22, 1990. Last night, the House approved H.R. 1463 including an amendment to reduce the Federal share to 75 percent. This matches the legislated Federal and local shares under the UMTA section 3 program and, therefore, puts Metro on the same basis with all other transit systems.

Since 1968 local governments have contributed over $1.3 billion for Metrorail construction and have transferred an additional $2.2 billion in interstate highway grants to Metrorail construction. During this same period local governments have contributed $2.3 billion to operate the Metro system. By the year 2000 operating subsidies by the local governments will reach $500 million annually. Local governments have demonstrated time and time again their commitment to funding Metro, in partnership with the Federal Government. The local jurisdictions in this region identified, and the U.S. Department of Transportation certified, the existence of a stable and reliable source of funding. The local governments have never failed to meet their financial obligations to Metro, even in the face of declining Federal support for other important services such as education, health, housing, human services, and law enforcement.

In some instances, important capital projects for other local needs were deferred in order to meet Metro's budget requirements. Almost all of the remaining Metrorail construction will occur in the District of Columbia and Prince Georges County. These two localities will bear the greatest burden for the local share of the remaining Metrorail mileage. The District, for example, will pay 42 percent of the local contribution. No jurisdiction in this country is wealthy enough to bear the costs of a project like that without Federal help.

The Federal Government, two States and the District of Columbia, and seven local governments entered into an agreement over 20 years ago to build a premier rapid rail system worthy of the Nation's Capital. The States, the District of Columbia, and the local governments have held up their end of the bargain and now we ask the Federal Government to do the same.

Our request for a separate reauthorization continues that Federal-local partnership to build and to complete the adopted regional system.

Let me just turn for a moment to the operating budget. The Authority's board of directors has approved a fiscal year 1991 operating budget of $615 million or 7 percent more than our fiscal year 1990 approved budget. This budget is designed to encourage ridership growth as we open new rail lines, enhance Metrobus service and continue to enhance safety and reliability. It does not include a fare increase.

The local jurisdictions in this region will provide over $300 million in fiscal year 1991 to cover operating expenses not paid for by the farebox revenues. On March 15 our board of directors referred the Authority's fiscal year 1991 budget to the local jurisdictions for review and comment.

SUMMARY

In summary, our request is for $200 million, of which, as I indicated, $64.1 million is from Stark-Harris and $135.9 is contingent upon enactment of reauthorizing legislation. The funds will be used for construction, startup, and project management associated with the 19 miles currently under construction and to be completed shortly, and to proceed with completion of the full 103-mile system.

PREPARED STATEMENT

Let me say that we are committed to provide safe, reliable, dependable, affordable, and efficient public transportation service in a cost-effective way to the people of this region and to the many tourists that come and visit our city. We greatly appreciate your support for Metrorail and Metrobus. Thank you very, very much for the opportunity to testify before you this morning, and I would be happy to answer any questions.

[The statement follows:]

STATEMENT OF CARMEN T. TURNER

INTRODUCTION

Good afternoon, Chairman Lautenberg and members of the subcommittee. I am pleased to present the Authority's fiscal year 1991 program. Before I do, I wish to take this opportunity to thank you and the members of the subcommittee for your continuing steadfast support for Washington Metro and public transportation throughout the Nation.

I am also very pleased to have an opportunity to work with Brian Clymer. He brings to his position a wealth of experience in public transportation and, more importantly, a commitment to working with the industry to improve the quality of public transportation nationwide. We have found Administrator Clymer to be open, candid and very accessible. The fact that we are located in the same region as the

Administrator provides us with additional opportunities to forge a productive working relationship with the Urban Mass Transportation Administration. We look forward to working closely with Brian towards this goal.

The authority's FY 1991 appropriations request is for a total of $200 million, comprised of $64.1 million in Stark-Harris funds and $135.9 million that is contingent upon enactment of reauthorizing legislation. Before I describe our FY 1991 request in greater detail, I would like to provide a brief update on the status of Metro operations and our construction program.

THE OPERATING SYSTEM

The Authority's policy is to operate a fully integrated bus and rail system. This means that as we open new lines, bus service is adjusted to feed the new rail stations, and with only a few exceptions, we terminate bus service which duplicates or parallels the new rail service.

As our map shows, today we operate 70 miles of rail service including: the Red Line from Silver Spring to Shady Grove; the Orange Line from Vienna to New Carrollton; the Blue Line from National Airport to Addison Road; and the Yellow Line from Huntington to Gallery Place-Chinatown.

Our bus fleet of 1600 vehicles covers 500 routes and travels 175,000 miles each day. The cost recovery ratio projected for fiscal year 1991 is 76 percent for Metrorail, 32 percent for Metrobus, and 53 percent for the system.

Metro ridership continues to grow. Ridership on Metrorail grew over five percent in 1989, with no new rail openings. We carry in excess of half a million Metrorail passenger trips on an average weekday. Metrobus ridership has grown one percent above last year. On an average weekday we carry 460,000 passengers on Metrobus. On Inauguration Day we carried a record 604,000 passengers trips on the rail system. As we open new rail lines in 1990 and 1991, we expect 7.5 percent increase in ridership, over and above the normal four percent ridership growth we are projecting for this period.

STATUS OF RAIL CONSTRUCTION

We currently have 19.5 miles of construction underway. These 19.5 miles will complete 89.5 miles of the system within the funds available under the Stark-Harris authorization. In 1986, as you recall, the Authority executed a full funding agreement with the Urban Mass Transportation Administration which essentially guaranteed that these 19.5 miles would be completed within the remaining Stark-Harris authorization. The agreement requires us to build in operable segments and to assure that funds are available to bring each segment into full revenue service as a condition for releasing Federal appropriations to even start construction. It takes approximately seven years from the time you break ground until a rail line is brought into revenue service. Therefore in order to continue our construction program we had to pledge and hold in reserve funds that in some instances could not be spent until the segment was nearing completion.

The Transit Authority has met its commitments under the full funding agreement. The four operable segments that comprise the 19.5 miles will be completed within the Stark-Harris authorization. All of the segments under construction are scheduled for revenue service between September of this year and the end of 1993.

More specifically, on September 22, we are scheduled to open the Red Line from Silver Spring to Wheaton. We are also scheduled to begin service on the Green Line from Gallery Place-Chinatown to the U Street-Cardozo station on December 1 of this year. These openings will add 4.9 miles and 5 stations to the current operating rail system, bringing us to 75 miles and 66 stations in calendar year 1990.

In addition, we are building: The Blue Line from King Street to Van Dorn—planned for revenue service in early 1991; the Green Line from L'Enfant Plaza to Anacostia—scheduled to open in late 1991; and the outer Green Line, from its intersection with the Red Line at Fort Totten and extending to Greenbelt, which will be carrying passengers in late 1993. By the end of 1993, we will have a total of 89.5 miles in revenue service.

There remain 13.5 miles to complete the 103 mile adopted regional system: The inner Green Line from U Street to Fort Totten; the Red Line from Wheaton to Glenmont; the Green Line from Anacostia Station to Branch Avenue; and the Yellow Line from Van Dorn to Franconia/Springfield. The Metrorail system was designed to operate as a whole, in order to ensure that it runs at maximum efficiency, while minimizing operating costs, we must complete the system.

FY 1991 FEDERAL APPROPRIATION REQUEST

As I stated earlier, we are requesting $200 million in FY 1991 Federal funds. Of our total request, $64.1 million is from funds available under the current Stark-Harris authorization. The remaining $135.9 million the Authority is seeking is contingent upon enactment of the legislation currently before the Congress.

Our request for an FY 1991 appropriation of $64.1 million, from Stark-Harris funds, will be used for:

—Project management, including support for the construction management team, resident engineers, and inspection staff at construction sites, as well as specialized consultants in areas such as general engineering, soils and surveying.

—System start-up and continuing construction activities for the rail lines that are currently under construction and will go into revenue service before the end of 199[illegible]. Start-up activities include testing electrical substations, communications systems, fare collection equipment, and automatic train control and braking systems for reliability and safety. Construction includes corrosion control, instrumentation, and ancillary construction.

—Remaining construction claims costs. Construction claims are an anticipated expense in large capital construction projects. Even relying on the best estimates, in major transit construction projects there are substantial unknowns which require contract modifications. These may be caused by factors such as utility relocation, site conditions differing from those expected, or access delays. While we recognize that some claims are inevitable, we work very hard to keep them to a minimum.

In addition, we are requesting $135.9 million, subject to enactment of the pending reauthorization bill. These funds would be used for:

—Design work for segments throughout the region that comprise the remaining 13.5 miles. We need to proceed with this work now in order to maintain momentum of the construction program. Design and engineering includes environmental analysis, general plans preparation, and final design which must be completed prior to construction.

—Real estate acquisition. While we have been able to acquire real estate on certain portions of the system beyond 89.5 miles much remains to be acquired.

—Purchase of 40 additional rail cars. When we initiated the 100 rail car purchase that is now underway using FY 1988, 1989 and 1990 appropriated funds, we identified a need for an additional 40 cars over and above the initial order for 100 cars. With continuing expansion of the system, and the addition of 15,000 parking spaces, we estimate that another 40 cars will be needed to accommodate anticipated ridership.

The sum of these two amounts, $64.1 million from Stark-Harris funds and $135.9 million, contingent on enactment of new legislation, comprises our total request of $200 million for Metrorail construction in FY 1991. The appropriation of these funds will support our ongoing construction program as we near completion of 89.5 miles and commence work on the final portion of the full 103 mile system.

COMPLETION OF THE 103 MILE SYSTEM

In 1967 a Federal-local partnership to construct a rapid rail system for the national capital region was consummated. That partnership has ensured the construction of a total of 89.5 miles of quality rail facilities of which the last 19.5 miles will be in revenue service by the end of 1993. This partnership must endure in order to complete the remaining 13.5 miles of the 103 mile adopted regional system. In the face of increasing local demands, the jurisdictions in this region have consistently met their financial obligations for both construction and operating expenses over the life of the project. The local governments have relied on the partnership throughout this period with full confidence that all lines would be built.

On March 16, 1989, a bi-partisan congressional delegation introduced S. 612 and H.R. 1463, authorizing additional Federal funds for Metrorail construction to be appropriated in increments of $200 million over a period of 11 years. These identical bills are a simple reauthorization of Stark-Harris. The legislation, *the National Capital Transportation Amendments,* was voted favorably out of the House Committee on the District of Columbia on March 22, 1990. We expect this legislation will be considered by the Full House in the very near future.

Our request for a separate authorization continues the Federal/local partnership created to build the adopted regional system. That partnership took into consideration the greater Federal concern for a transportation system in the National Capital region which would serve the Federal work force, the many other citizens of the area, and tourists from across the country and around the world. In addition, Metrorail is not a new start; therefore new start systems across the country should not be required to compete with it.

AUTHORITY'S FISCAL YEAR 1991 OPERATING BUDGET

The Authority's board of directors has approved a fiscal year 1991 operating budget of $615 million, or 7 percent more than our FY 1990 approved budget. This budget is designed to encourage ridership growth as we open new rail lines, enhance Metrobus service and continue to enhance safety and reliability. The budget does not envision a fare increase. The local jurisdictions in this region will provide over $300 million in FY 1991 to cover operating expenses not paid for by farebox revenues. On March 15th, our board of directors referred the Authority's FY 1991 budget to the local jurisdictions for review and comment.

CONCLUSION

In summary, our request is for an appropriation of $200 million, of which $64.1 million is from Stark-Harris funds and $135.9 million is contingent upon enactment of reauthorizing legislation. The funds will be utilized for construction, start-up, and project management associated with the 19.5 miles currently under construction and to be completed shortly, and to proceed with completion of the 103 mile system.

Our commitment to provide safe, reliable, dependable, and affordable public transportation service in a cost-effective and responsible manner is unwavering. We greatly appreciate your support of Metrorail and Metrobus.

Thank you for the opportunity to testify today on our FY 1991 program. I will be pleased to discuss it further with you.

STATEMENT OF BRIAN CLYMER

Senator LAUTENBERG. Thank you very much, Ms. Turner. That is a very accomplished picture that you present for a system that operates well, that people take pride in, and use extensively.

We are on your side. The question is from whence cometh the resources? Mr. Clymer, do you want to make a prepared statement, or insert it in the record, or we could go on and question you?

Mr. CLYMER. A brief oral statement, and I will submit my full statement for the record, if I might.

First, I would like to indicate my enthusiasm for working with Carmen and her board of directors. They could not be more open or cooperative in working with UMTA.

Our fiscal 1991 budget request of $38 million under Stark-Harris authorization is based, as in prior years, on a funding schedule established in our full funding agreement with WMATA. This level of Federal funding is more than adequate to maintain the construction management effort for the 89.5-mile rail system currently under construction as well as funding of the startup costs for these system extensions.

Just a brief word on the National Capital Transportation Amendments of 1989 which would authorize the $2.16 billion to extend the system.

As we have stated in prior testimony and correspondence, we do not oppose completion of the Metrorail system, but we oppose any further special authorizations. Our view is that funding for completion of the system should be considered in the context of the overall Federal Mass Transit Program that will emerge at the end of the current authorization cycle due to expire next year.

PREPARED STATEMENT

With that I will submit the rest of my remarks for the record, and I am available to answer any questions.

[The statement follows:]

STATEMENT OF BRIAN W. CLYMER

Mr. Chairman, and distinguished members of the Subcommittee, I am pleased to have the opportunity to appear before you today to discuss our budget proposal for the Washington Metropolitan Area Transit Authority's (WMATA) fiscal year 1991 Metrorail construction program. At the outset of this, my first appearance before the Subcommittee, I am reminded of a statement made recently by a former UMTA Administrator—that there are two things in this town you don't want to criticize—the Redskins and Metro. I will try to abide by that advice regarding Metro but must reserve my position on the Redskins out of loyalty to the Philadelphia Eagles, my home team.

Our fiscal year 1991 budget request of $38 million under the Stark-Harris authorization is based, as in prior years, on the funding schedule established in our Full Funding Agreement with WMATA. This level of Federal funding is more than adequate to maintain the construction management effort for the 89.5-mile rail system currently under construction, as well as funding of start-up costs for these system extensions.

WMATA is requesting $200 million in Federal funding for fiscal year 1991. Of this amount, $64.1 million is requested under the Stark-Harris authorization. The difference of $26.1 million over our $38 million request is based on their estimate of out year construction claims and out year start-up costs of system extensions which will not open until calendar year 1993. WMATA has sufficient funds in hand which could be reprogrammed to cover any unexpected claims costs which might occur during fiscal year 1991. We see no need to advance Federal funding for these purposes.

WMATA's remaining request of $135.9 million assumes enactment of the proposed "National Capital Transportation Amendments of 1989". This funding would be employed for the construction effort beyond 89.5-miles and for additional rolling stock.

I note that included within WMATA's $135.9 million reauthorization request is Federal funding in the amount of $37.6 million for additional rail cars. Our evaluation of the current status of the construction program indicates that there is available to WMATA appropriated and approved Federal funds in the amount of $50.4 million which could possibly be reprogrammed to meet rail car needs for the 89.5-mile system. This $50.4 million of available funds consists of $17.9 million of budget underrun due to favorable bidding on construction contracts to date and $32.5 million of excess contingency funds.

As the 89-mile construction program winds down, and assuming that WMATA can maintain the excellent, under budget bidding experience of the past few years, these potentially surplus funds could be reprogrammed for other Metrorail activities under the terms of our Full Funding Agreement.

Now I would like to say a few words on the "National Capitol Transportation Amendments of 1989" which would authorize $2.16 billion to extend the Metrorail system from 89.5 miles to 103 miles. As we have stated in the prior testimony and correspondence, we do not oppose completion of the Metrorail system but must oppose any further special authorizations. Our view is that funding for completion of the system should be considered in the context of the overall Federal mass transit program that emerges at the end of the current authorization cycle due to expire at the end of fiscal year 1991.

Upon completion of the 89.5 miles of the Metrorail system in 1993, the Metrorail system will have received far more Federal construction assistance than any other new transit system—a total of $7.7 billion. This investment represents 60 percent of the total $12.9 billion which has been made available by the Federal government for the construction of new mass transit systems since 1968. A new special authorization for the Metrorail system, which benefits four of the wealthiest counties in the country, is inequitable given the Federal government's generous contribution.

While WMATA is proposing a local investment in the system of only 20 percent, in recognition of limited Federal resources other transit authorities are paying a substantially higher proportion of the costs of their projects—in many cases over 50 percent. Even if the remaining 13.5 miles are constructed without any Federal participation, the Federal share for the entire project would still be 60 percent, higher than for cities such as Atlanta or Los Angeles.

Finally, contrary to some arguments, under a new special authorization, funding for Metrorail would still compete with funding for other transit projects because all such funding decisions are ultimately considered together in the appropriations process for the Department of Transportation yearly budget.

Notwithstanding our differences, I wish to compliment Mrs. Turner and the WMATA staff for their excellent progress on the 89.5-mile Metrorail system. I am told that construction is close to schedule and within the $1.13 billion Federal funding budget established under our Full Funding Agreement in 1986. WMATA's engineering and construction staff and our project management oversight contractor have established a close and cooperative working relationship. The oversight contractor has assisted WMATA in the development of an excellent quality assurance program and improvements in an already excellent construction safety record.

As Mrs. Turner will relate, 1990 will see the opening of two extensions of the rail system with two more following in 1991. And, finally, I hope to join Senator Mikulski in late 1993 for the commencement of Metrorail service to Greenbelt.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to questions.

REAUTHORIZATION OF STARK-HARRIS

Senator LAUTENBERG. Thank you very much. That short summary probably ignited some interest I would say.

Ms. Turner, why are you lobbying for a stand-alone piece of legislation? What do you see as the advantages for doing that?

Ms. TURNER. The system historically has been built with a separate authorization. The local governments joined in an agreement with the Federal Government to complete and adopt a regional system with terms and conditions that were based on a separate authorization. We believe that that partnership should continue through the balance of the construction of the Adopted Regional System.

We do not think that it serves our sister transit authorities well to compete with Metrorail for the very scarce dollars that are available in section 3. In addition to that, almost every transit system in this country has indicated that they prefer to see Metrorail continue its construction program with a separate authorization.

Senator LAUTENBERG. Have you thought about having this reauthorization part of the omnibus surface transportation reauthorization that will be considered early next year?

Ms. TURNER. No, sir.

Senator LAUTENBERG. For the obvious?

Ms. TURNER. For the obvious reasons.

Senator LAUTENBERG. What do you see as your advantage to having a separate line item authorization for general funds rather than being considered through the dedicated transit trust fund?

Ms. TURNER. Our concern is to complete the last 13 miles of Metrorail as rapidly as possible. We believe that we are in the home stretch, that the separate authorization has worked well for this National Capital region. It gives us greater probability that we can bring the system in on time and project those costs out in a responsible way.

Senator LAUTENBERG. You are aware of the fact that general funds are being cut substantially and it is getting harder and harder to find places to get this funding. Once again, I think that projects like this one deserve to be built.

I listened very carefully to what you said about the numbers of cars that we can take off the road, the reduction of the assault on the air quality, and the savings in fuel. It makes sense, but obviously the gentleman to your left has a different point of view when it comes to how we get the funds.

You are asking for a total of $64.1 million, Ms. Turner, out of $200 million of existing authorized Stark-Harris. How does the request break down; namely, administrative, startup costs, how much for construction claims, et cetera?

Ms. TURNER. We are requesting $28 million for project management, $17.7 million for startup, $7.6 million for other construction, and $10.8 million for claims. So that would bring us to $64.1 million.

CONSTRUCTION CLAIMS

Senator LAUTENBERG. Ms. Turner, a consistent difference between yourself and the administration has been over these construction claims. How do they arise, and why do you need the money?

Ms. TURNER. In any major public works project of this nature, one has to anticipate claims. We work very, very hard to hold the amount of claims to a minimum. In fact, we just did a calculation that shows that out of the total construction cost for Metrorail, about 2 percent is for claims. That is over the entire life of the project.

We are talking about a construction project that is being built in an area that has very diverse geological elements. We find quite frequently that once we get into construction we have changing soil conditions that have to be met. We are talking about a project that has a significant amount of deep tunneling where information about site conditions is obviously incomplete.

While obviously we do everything we can to make sure that our estimates are accurate, there are problems that we run into. Claims arise frequently out of changes in project scope. As you move a project forward, you may have to make some adjustment or some modification as a result of that.

We believe, given all of the external factors that influence a major project of this nature, that to have a 2-percent claims balance against a major construction project is reasonable and responsible.

Senator LAUTENBERG. How would you settle these claims if you were not to get an appropriation?

Ms. TURNER. We need the appropriation, Mr. Chairman, in order to settle the claims. In fact, last year we received one-half of the funds we requested for claims. This $10.8 million that we are asking for this year represents the balance between what we asked for last year and what we are asking for this year.

I have to say that claims are an ongoing part of any major public works project. We think that this is a responsible request, and we would ask for your favorable consideration.

COSTS ASSOCIATED WITH COMPLETING 89.5-MILE SYSTEM

Senator LAUTENBERG. How much of the request for startup costs are associated with the 89.5-mile system, and how much is for years beyond the fiscal year 1991?

Ms. **Turner**. The entire $17.7 million is for the 89.5-mile system, of which $6.4 million would be allocated in fiscal year 1991.

Senator **Lautenberg**. How much of your request is associated with the system beyond the 89.5; namely, the 13.5 miles?

Ms. **Turner**. The funds for beyond 89.5 miles are the $135.9 million that would be subject to enactment of the reauthorization.

Senator **Lautenberg**. That is for three major areas; correct? Design, real estate acquisition, and additional rail cars?

Ms. **Turner**. And construction.

Senator **Lautenberg**. And construction.

How does it break down among the activities?

Ms. **Turner**. $10.9 million for design, $14.6 million for real estate, $72.8 million for construction, and $37.6 million for rolling stock.

Senator **Lautenberg**. Does the lower level requested by the administration impair WMATA's construction that is already underway?

Ms. **Turner**. The administration does not include any funding beyond 89.5 miles.

Senator **Lautenberg**. How about, however, construction that is underway for the 89.5? Is that impaired in any way by the administration?

Ms. **Turner**. The administration's request is for $38 million. The differences are in startup, other construction, and claims. We both agree on $28 million for project management. The administration supports $6.4 million for startup and force account and $3.6 million for other construction. They include no funds for claims.

Senator **Lautenberg**. So what is the effect of the lowered level of funding? Where does that leave you with the 89.5-mile system?

Ms. **Turner**. Well, it certainly, in my view, leaves us with a serious problem with respect to claims. We have projected out our costs for startup and for other construction through 1993.

We believe that allows us to organize and to plan our work. We are also concerned about retaining our very highly qualified technical staff. To the extent that we have some assurance that this work is going forward, we feel that we are in a much better position to maintain the momentum of our construction program.

DIFFERENCE BETWEEN ADMINISTRATION'S AND WMATA'S REQUEST

Senator **Lautenberg**. I am going to ask Mr. Clymer a question, and then I will turn to my colleagues.

Under the original Stark-Harris authorization, how much is still left to be appropriated?

Mr. **Clymer**. There is $108.2 million left under the Stark-Harris appropriation.

Senator **Lautenberg**. Absent reauthorization, how would the administration spend the balance of the $108 million?

Mr. **Clymer**. It would be spent bringing into operation the balance of the 89.5-mile system as well as funding the construction claims that you have been discussing, and it is all programmed in line with our full funding agreement to do exactly that in time and when those funds are needed.

Senator **Lautenberg**. What is the difference? Why the difference between the $38 million requested by the administration for Washington Metro and the $200 million requested by Metro?

Mr. **Clymer**. It is mostly a timing difference, Mr. Chairman. We agree on all of our numbers. Of course, the $135.9 million is for activities that go beyond the 89.5-mile system. The difference between the $38 million and WMATA's $64 million are as follows:

Management and consultants we both agree should be $28 million.

With regard to startup costs, we programmed $6.4 million, which is the current cash outlay needed for the next fiscal year, and WMATA has programmed $17.7 million, which includes outyear costs. They are bringing back a cost that will not be required to be laid out until a succeeding year.

Likewise with some miscellaneous construction, we programmed $3.2 million, which are the cash outlays necessary. They have included some of the outyear costs, bringing their total to $7.6 million.

We included $400,000 for project management oversight which WMATA has not included at all. They have included $10.8 million for construction claims, and we have programmed nothing in the current year for construction claims.

I might point out that in the past several years they were given $22 million for construction claims and actually only programmed $6 million of that, and last year, in spite of a request for $10 million in construction claims, only provided $3 million in that budget line item.

Our contention in the area of construction claims is simply one of timing in terms of making these funds available, not in the amount of the construction claims. Two percent for construction claims over the life of a job the size and duration of WMATA, I think, is excellent, and certainly it shows the outstanding management which they have enjoyed.

When you are budgeting against construction claims, it is always an estimated amount and in reality just a contingency. The true cost of those claims for the projects really is not going to be known until those claims are resolved.

WMATA, to my understanding, has outstanding construction claims, some of which date back into the 1970's, and I believe that there is really no urgency in making those funds available right now. We are every bit as interested in having the dollars available as WMATA is, but only when they are actually needed to pay those claims. Again, it is simply a matter of the timing. We feel that they will need an additional $10.7 million but probably not until fiscal year 1993.

ADMINISTRATION'S POSITION ON STARK-HARRIS REAUTHORIZATION

Senator **Lautenberg**. Ms. Turner will have a chance to respond to that, but what is the administration's position on the Stark-Harris reauthorization?

Mr. **Clymer**. Our position, as I indicated, is that we believe that there should not be a separate reauthorization for WMATA. The argument for the historic and traditional way that the system was built is not really a valid one. In fact, from the mid-1970's to the early 1980's the Metrorail construction was funded under the interstate transfer provisions of the UMTA Act, and Stark-Harris did not come into effect until 1979. However, 1983 was really the first year of the use of this special authorization.

Special authorization appears to be inappropriate for the National Capital Transit Program. Many cities appear to believe WMATA does not compete with other transit projects. We believe that nothing could be further from the truth. Transit appropriations are definitely finite, whatever the source of Federal funds.

Senator **Lautenberg**. Senator Sasser.

Senator **Sasser**. Thank you very much, Mr. Chairman.

Ms. Turner, as one of your patrons I want to ask some questions about Metrorail. I guess I am the only Senator around here that rides it. Senator Proxmire used to be a fellow rider. I noted that Senator Proxmire always tried to ride at the nonrush hours to get the special nonrush hour rate. [Laughter.]

WMATA'S OPERATING BUDGET

Let me ask you a few questions here.

You note in your statement that your budget for this year is $615 million.

Ms. **Turner**. Operating budget.

Senator **Sasser**. Operating budget. It is going up 7 percent. That is 2 or 3 percent above the rate of inflation. I just inquire as to why it might be going up.

Ms. **Turner**. The major reason that our operating budget is going up 7 percent is that we are bringing in new service. If we take out the new service, our operating budget increase is below inflation. We are bringing in two new segments this year, and that drives the operating cost up.

Senator **Sasser**. I see.

You indicate also in your statement that $300 million of your operating expenses are not paid by farebox revenues, as I understand it, but by contributions from local jurisdictions?

Ms. **Turner**. That is correct.

Senator **Sasser**. So by simple subtraction, then, could we glean that $315 million of your operating budget is paid by farebox revenues?

Ms. **Turner**. And by other revenues generated by the system, joint development and other revenues. We project that we will recover 53 percent of our operating cost systemwide from revenues, and the local governments are committed to make up the difference.

ROLLING STOCK

Senator **Sasser**. How many cars do you presently have on the system? I think you were going to purchase an additional 100 cars in 1988, 1989, and 1990?

Ms. **Turner**. Yes; we have 660 cars in the system today.

Senator **Sasser**. You need an additional 40 cars, you think, to take out the slack when the new additional lines are fully opened?

Ms. TURNER. We have a procurement underway for 100 cars today, and we are requesting funds for an additional 40 cars in this request.

The 40 cars for which we are requesting funds were primarily out of the increased parking that we are planning to build and the ridership that we believe that parking will generate. Obviously those cars will be counted against the full car requirement for the 103-mile system.

Senator SASSER. These cars that you purchase, are they made in Italy?

Ms. TURNER. Yes, they are.

Senator SASSER. What do you pay for those? Do you have any idea, just a ballpark figure?

Ms. TURNER. $1.2 million per car including spare parts.

Senator SASSER. Nobody in this country makes a subway car?

Ms. TURNER. There are no manufacturers of transit cars in the United States.

Senator SASSER. Well, that is unfortunate.

Ms. TURNER. And I might say that that $1.2 million compares favorably with car procurements across the United States.

Senator SASSER. Any other subway car manufacturers other than the Italians?

Ms. TURNER. Oh, yes. The Japanese make cars; the Canadians make cars; the French make cars; I believe the Germans make cars.

Senator SASSER. Maybe we ought to get Lee Iacocca in the subway car business here.

Someone once wrote that a critical measure of a civilization is the degree of maintenance. It sounds like it might have been a Dutch philosopher who wrote that. But I note just from casual observation that these cars, which are very attractive—and I think you do a terrific job of keeping the cars clean on the interior—many of them are getting a little grimy on the outside.

And you do have exterior wash facilities for them. Do you not?

Ms. TURNER. In fact, we have a major program going forward to clean up the exterior of the cars. One of the problems is finding the correct chemical solution that will not damage the exterior of the car, but that will allow us to clean it.

I believe that about 70 percent of the fleet is cleaned up. It is not that the cars are not being washed; it is trying to find a chemical solution that can be used to clean those cars that will not pit or destroy the finish on the cars.

Senator SASSER. Well, I think it is important to keep the system up——

Ms. TURNER. Absolutely.

Senator SASSER [continuing]. And look as well as it can, and I am sure you would agree with that. This system here in Washington, I think, is probably one of the greatest public relations initiatives that we can have for mass public transit, because of the enormous numbers of tourists who come here.

And I am sure as you have noticed, Ms. Turner, you and your colleagues, that the tourists ride that rail system and they seem to enjoy it. And if we are trying to build support for mass transit in this country—which I think is important, and I suspect you would agree—I think this system is and can be a great ambassador for building support for mass transit.

Ms. **Turner**. Senator Sasser, I assure you that within the next 2 or 3 months, all those cars will look like new again.

Senator **Sasser**. And make sure you can see the red, white, and blue real pretty on the sides, again.

Ms. **Turner**. OK, we will do that.

Senator **Sasser**. Thank you, Mr. Chairman.

Senator **Lautenberg**. That will be the Senator Sasser private car on there.

Senator **Sasser**. Well, I would like to have a private—maybe we could put a club car on the back of that Red Line at about 8:30 in the morning.

Senator **Lautenberg**. You heard him, Ms. Turner.

Senator **Sasser**. Thank you, Mr. Chairman.

Senator **Lautenberg**. Thanks very much.

Senator Sasser has been very positive on support for mass transit, particularly WMATA, because he too shares a common view with us that this country, in order to have an appropriately functioning transportation network, has to include a significant sector for mass transit.

Our distinguished colleague from the neighborhood, as they say, Senator Mikulski who also—I think Senator Mikulski loves mass transit.

MASS TRANSIT'S ECONOMIC BENEFITS

Senator **Mikulski**. Actually, I do, Mr. Chairman. And I want to thank you for your strong commitment not only to the Washington Metro system, but to mass transit as a whole, and of course to our authorizing colleague, Senator Sasser.

Mr. Chairman, I know you and I believe that mass transit is more than a means of transportation. We saw that in the recent San Francisco earthquake because the San Francisco subway system worked. San Francisco did not stop, even though they were devastated. The adequacy of the system and the adequacy of the design enabled San Francisco's economy to keep going while they tried to deal with this devastating tragedy.

This is one Senator who also sees mass transit as a form of welfare reform. Many people have taken project independence and other programs to move people from public assistance into work they tell us, the two things needed were transportation and help with health care benefits.

Mr. Chairman, one of the reasons the Washington Metro completion is so important is it will serve the neighborhoods that are often the poorest of the poor. And it will not only provide a subway system inside the District of Columbia, but for D.C. residents who have moved to the suburbs, out around the Shady Grove area, along the Green Line in Prince Georges County, and into Northern Virginia. It is not only a ticket to a subway, it is a ticket to a future.

And this is why we think this linkage is so important. I could elaborate on that, but I know you see that. And I see Ms. Turner nodding her head.

So, Mr. Clymer, first of all, hi, because you and I have not had a chance to meet. And I really did not mean that as a rhetorical speech. It really is how it benefits public investments that create public goods far beyond their specific mission.

REAUTHORIZATION OF STARK-HARRIS

I want to just ask you a question about the authorization. The chairman has asked many of the questions that I myself had. As you know it passed the House yesterday on a rather solid vote of 260 to 150. And now it will be here in the Senate, with the Sasser subcommittee and those of us who will be working on it.

If this legislation passes, do you see it being approved by the President? Or do you think we have a variety of obstacles? How strong is this objective to the administration? And is there a common ground for reservation?

Mr. CLYMER. I can only answer that generally. I think some of the decisions as to what the President will ultimately do are going to be made a little bit above my pay grade.

Senator MIKULSKI. We will move your pay grade, if we can move the subway. [Laughter.]

Mr. CLYMER. We are talking about the Secretary of Transportation. Certainly the Secretary and Director Darman of the Office of Management and Budget have indicated considerable opposition to passing the reauthorization separately as opposed to WMATA being part of the overall mass transit authorization coming up next year.

The indications that I have are that they would continue to oppose it on that basis and would recommend that it be vetoed.

Senator MIKULSKI. Well, Mr. Clymer, I hope as we move through this process, we can have continued conversations to see if there is not some common ground that we could arrive at.

We understand that there is a certain validity to their position. But we think ours is—"it is America's subway" and would also see the validity of our position. However, we have only 13.5 more miles to go, but we have a long way to go in the legislation. So we really look forward to working with you, and we look to you to be our link to the administration to see where those common grounds might be.

It is not our intention, if we can, to be in a major confrontation.

Mr. CLYMER. We will certainly be happy to work with you, Senator. There is no question that a system like that is good public relations for any city. We certainly enjoy that in Philadelphia, and I know they enjoy that in San Francisco. The same goes for other systems.

I ride the system. I use it to get to work. So I am certainly an efficient——

Senator MIKULSKI. Where do you live? What area?

Mr. CLYMER. Capitol Hill, and it is a short ride, but an appreciated one. You are able to see as new stops are opened up on the system how urban areas seem to blossom around it in terms of redevelopment.

Again, our concern is not that the system ultimately not get built. Some of the most vital links remain uncompleted. It is simply that we feel that it is just not necessary that it should enjoy a separate treatment as opposed to being considered as part of our overall authorization.

Senator **Mikulski**. Thank you, Mr. Clymer.

Ms. Turner, what would be the impact on operations as well as on the operation and completion of this subway if that strategy was followed? In other words, wait until it is part of and—you know.

Ms. **Turner**. We believe that——

Senator **Mikulski**. By putting it in the omnibus mass transit, who knows if that will happen.

Ms. **Turner**. We have two points there. The first one is that it limits our predictability to forecast the cost and completion of the system.

The second point that we would like to make is there is no assurance that the funds that are appropriated for Metrorail would be included in the overall section 3 discretionary pot.

Senator **Mikulski**. Would the delay add to the cost?

Ms. **Turner**. Add to the cost, absolutely. .

Senator **Mikulski**. Do you have an estimate?

Ms. **Turner**. I could get one for you. We know that for each year that this system is stretched out, that cost is increased at least by inflation. We have estimated the future interest rate to be 5.5 percent. Obviously, the longer the delay, the greater the increase in cost as the inflation rate compounds. And we know that our proposed bill at $200 million a year is needed to complete the last 13 miles.

Senator **Mikulski**. Well, as you know the chairman has been very cooperative in the funding last year of over $80 million.

Ms. **Turner**. Yes.

Senator **Mikulski**. Your request of $135 million is working on the assumption that there will be a reauthorization—or excuse me, an authorization to complete the 13.5?

Ms. **Turner**. That is correct.

Senator **Mikulski**. Now, in the event that that does not occur, in the event that we would end up in this—and I am not saying that—but you would still need a substantial part of the $135 million regardless of what legislative mechanism is the authorizing vehicle.

Ms. **Turner**. Absolutely.

Senator **Mikulski**. And regardless of the legislative authorizing vehicle, how much would you need? Is it the same?

Ms. **Turner**. We would need the same. And then we would need $200 million for each succeeding year. And we just do not believe that that section 3 discretionary pot would have funds available to meet Metro's needs and to satisfy the needs of the systems that are under construction.

Senator **Mikulski**. And it would also then pit Washington Metro and other subway systems around the country against this particular one and this against that.

Ms. **Turner**. And as I indicated earlier, all of the systems, including New Jersey, Philadelphia, Los Angeles, Minneapolis, BART, every major system has submitted letters indicating that they prefer to see Metrorail complete its last 13 miles with a separate authorization and not compete——

Senator MIKULSKI. Because it serves a public national purpose, it is the capital.

Ms. TURNER. That is right.

Senator LAUTENBERG. And it also reduces competition for their funds.

Senator MIKULSKI. Well, you said be little not quite so loud and a little bit more lofty I think.

Senator LAUTENBERG. That is because I respect and believe that if you could get this authorized and, we could get the others, some of the other systems done as well. It will probably be a good way to go.

What we are looking at is constant tightrope walk that we have, and you cannot plan properly ahead.

Senator MIKULSKI. That is exactly right, Mr. Chairman. And I know we talked with you. Our Governor Schaefer comes here and talks with you. And Senator Sarbanes and I sit there. You have been very generous and so was your predecessor. But there are other subways.

WMATA'S OPERATIONS REQUEST

Ms. Carmen, you also outlined for the chairman that if you got the $38 million which is for current operating concerns, $64 million is what you say you need to do your current day-to-day operation of the system. Is that right?

Ms. TURNER. $64 million is our request out of the balance of Stark-Harris that would cover project management, startup, claims, and ancillary construction.

Senator MIKULSKI. I see.

Ms. TURNER. That is our request.

Senator MIKULSKI. Now, in Chamber of Commerce English and Rotary Club English, what would it mean if you only got $38 million? If you were one of the rotaries affected by the current system, and they said, well, they are saying $38 million. What is going to happen to us?

Ms. TURNER. I have to answer it this way, Senator. A major part of a successful construction program is the ability to not only deal with the current year but to have some indication that you can plan and project out. Our request includes some funds for 1992 and 1993. If we receive the $38 million, we would obviously be limited only to those activities in 1991.

Senator MIKULSKI. I see. But would it be bus rides, would it be parking lots? What is it?

Ms. TURNER. No; it would still focus on startup, on some of the ancillary work that needs to be done, and on our ability to satisfy our claims.

CONSTRUCTION CLAIMS

And I do want to go back and just say one word about claims. We estimate that we have somewhere between $75 and $85 million as a reasonable estimate of claims, the total value of claims.

Senator LAUTENBERG. Could you say that again, please?

Ms. **Turner**. We estimate that we have somewhere between $75 and $85 million in claims. That is a reasonable estimate of the claims that are outstanding.

Now this is dynamic. One of the major thrusts in the Transit Authority—and I agree that there are some claims that have been longstanding claims—but one of the major thrusts in the Authority is to try to settle these claims. We believe that if we can settle the claims, and settle the claims quickly, or at least faster than we have in the past, we can save money.

We have been working with a number of contractors— some that are on the job today with major claims. We have, I believe, gone the extra mile to settle those claims because we believe in the long run it saves all of us money. So there is an aggressive effort in the Authority to get these claims settled and to settle them as quickly as possible.

REGIONAL DEVELOPMENT AND DEMAND FOR TRANSIT

Senator **Mikulski**. Well, I think that is a very important point for us—extremely, extremely important. One last question and then a wrap-up comment.

There is tremendous new development along Route 270, a high-tech highway. You know that they are talking about light rail there. When we look at the Green Line and so on, whether it is Indian Head Highway or whatever, in Prince Georges County, and I am sure it is also comparable in Northern Virginia—though I am not familiar with the specifics—we also expect development.

Can you see the development, for example, in the Frederick area, if the Governor would go ahead and go with a light rail system, all that development would do is feed into Shady Grove and the Red Line.

Do you anticipate a greater demand for your subway? The need for more cars? Will the current system be adequate for these new developments if they are moved along as currently authorized?

Ms. **Turner**. Obviously, our primary focus is completing the Adopted Regional System. That is a real challenge as we all know. But I believe that the region has to develop a comprehensive transportation plan that looks at what is in place. I certainly think that Metrorail serves as a point of reference or a framework for extending light rail and other modes. All of it should be interconnected to allow the greatest mobility for people that want to travel through the region.

Senator **Mikulski**. Thank you very much.

You know, Mr. Chairman, I know you are on my Subcommittee on VA-HUD, some of this is tied to the availability of affordable housing. The folks that I am talking about are moving out, for example, because housing will be cheaper. Then we have to build the roads and someone to keep up with them moving out. Perhaps if we had an affordable highway policy, we would not be in this problem. New Jersey is one of the prime examples.

Senator **Lautenberg**. We have the unpleasant phenomena—and Ms. Turner knows New Jersey very well; that is where her roots are—that we claim everybody anyway, even if it is not true. But in this case it is.

Senator MIKULSKI. I go to Atlantic City.

Senator LAUTENBERG. What happens is we have jobs begging for people and, people begging for jobs. And as you said, very clearly, one of the biggest factors that keeps these two elements separated is the fact that you cannot get there from here.

Cars, car insurance have prohibitive expenses. There is the question of theft in some of these poor areas, and the question of just transportation availability. And it would make such a difference in the whole social scheme, if we have the transportation availability.

And one of the things, I think it is fair to say, that as we look at other systems this one is really a tripartite in its extensions through the two States and the District—through the three States. And it serves a need that cannot be isolated into separate categories—you pay for this, you pay for that. I mean it serves a regional need in the most appropriate sense.

It also serves as a model for things to be done in the future. The problem that we have is the mismatch of funding and need.

And, Ms. Turner, I do want to ask you a question about the $135 million.

Senator MIKULSKI. Would the Senator withhold 1 minute, I have to leave. I just want to close and comment. I would really like—Mr. Clymer said it very well when we talked about the claims. I compliment the Washington mass transit system on its management and particularly in the area of scandals. This has been a scandal-free agency, and the claims have been quite modest. I think it is a tribute for the money that we spend, we have gotten 1 dollar's worth of subway for 1 dollar's worth of taxpayer's money.

Senator LAUTENBERG. A significant claimant is a company from New Jersey that needs its funds to operate with, as a matter of fact. You cannot just say no. At some point you have to step up and settle these claims, and we hope that will be the case, and some part of that is required funding.

OBLIGATING AUTHORIZED STARK-HARRIS FUNDS IN FISCAL YEAR 1991

I want to ask Ms. Turner one thing, and thank you very much, Senator. On the $135 million, how much of that would you be able to apply in this next fiscal year? Obviously, there is not going to be construction on the remaining 13.5 miles.

Ms. TURNER. We would project that for design $7.1 million would be obligated in 1991 and $3.8 million in 1992; for real estate $1.6 million in 1991 and $13 million in 1992. For construction, much of the preparatory work would be obligated in 1991 and early 1992, totaling $72.8 million, and then for rolling stock, $37.6 million obligated in 1991. For work beyond Stark-Harris a total of $46.3 million could be obligated in 1991, bringing the total fiscal year 1991 funds that could be obligated the first year to $94.7 million.

Senator LAUTENBERG. So it sounds like there is some validity to say that, since we do not have a significant portion of the expenditures for 1991, we ought to defer having to come up with that obligation. I guess your concern is the one that you expressed so clearly, and that is that if you do not have the commitment, you cannot get to work on these things.

Ms. **Turner**. There is another component of this, Mr. Chairman, and that is the terms and conditions under which the funds would be made available from the Urban Mass Transportation Administration.

As you know, the 19 miles under construction today are built under a full funding agreement that requires us to have all of the money in place before UMTA will approve release of grant money. If those conditions are in place, then obviously we have to make sure that we request funds that allow us to have that money in place so that the construction can go forward under the operable segments condition.

Senator **Lautenberg**. The $38 million is designed to take care of the remainder of the 89.5?

Mr. **Clymer**. If I could comment on that, Mr. Chairman, $38 million will accomplish everything that has to be accomplished in fiscal year 1991. As we indicated, the major differences in our numbers are the construction claims and the startup cost and miscellaneous construction, which Carmen indicated in her earlier comments were out-year costs that they want to have funded up front, but are not necessary to fund activities to be undertaken in fiscal year 1991.

Our estimate right now is that by the end of the current program there may be some $50 million of surpluses from various sources, consisting of construction underruns of about $18 million, surplus claims contingencies of $20 million, and design contingencies of about $12 million. We are simply not at the point of needing those claim dollars yet.

$50 MILLION SURPLUS

In addition to that, with regard to the $135 million, before they can start using that $135 million they would have to complete the design phase for segments beyond the 89.5-mile system. There are design contingencies already available in the amount of $11.7 million as part of the $50 million surplus that we feel is available right now. There just is not any reason to lay out the funds now because they would not have the ability to spend them during the next fiscal year.

Ms. **Turner**. Mr. Chairman, I would submit that Mr. Clymer and I work very closely together, but we have a difference of opinion in terms of how we believe this construction program can go forward and that the claims money is money that we would request in 1991.

I also want to speak to the $50 million. The $50 million is a number that was generated by the administration looking at our bid experience over the last several years. There is no assurance that that bid experience will continue. We may have some underruns and we may have some bids that come in higher.

We have committed to bring this system in within the balance of Stark-Harris. The local governments have committed to pay any difference between the cost to bring the system in that is covered by Stark-Harris and some balance.

I would be very, very uncomfortable to suggest that there is $50 million available for reprogramming or anything else at this point. At the most, we have identified about $11.7 million which we requested in our fiscal year 1989 appropriation so that we could have a little head start on the 13.5 miles by doing some of the design work and keeping the momentum of the construction program.

The administration has put that money in a contingency account; but if that money were released, we could move forward with design work today which would allow us to move faster in terms of obligating money for construction in the outyears.

I understand how the administration arrived at the $50 million. On the other hand, I think it is far too close to call. I am sure that in a project of this magnitude, when you are down to the final projects, it is difficult to suggest there will be $50 million available for reprogramming, and we still have some major contracts to award—the yard, for instance, out at Greenbelt. We have a great deal of work to do with respect to meeting the environmental concerns before we award the Greenbelt yard contract. I would be very, very uncomfortable in suggesting that there is $50 million that could be reprogrammed at this time.

Mr. CLYMER. I would agree, Mr. Chairman, with Carmen's remarks. The $11.7 million is certainly a hard figure, but the claims contingencies and construction underruns are based on examining what the experience has been. Of course, we are getting very close to the end of the 89.5 miles. We certainly have no reason to expect that their level of management would be any less in the wrapup than it has been in the past, in terms of projecting that these numbers will ultimately be good ones.

CONCLUSION

Senator LAUTENBERG. What I would like to do, we will conclude now. I would like to have staff availability from each of you, and including our own, just to massage these numbers once more and make sure that we are talking about the same things, because—well, I would love to have Ms. Turner have the comfort of knowing that the funding is in place and these things are going to go. Not to make your life easier, but to say to you we want to get this job done, and you have done an excellent job in directing it and I think it is important that we complete this.

The question, on the other hand, is what do we do with the very scarce funds, and as much as I feel so strongly about New Jersey regional problems, followed by Washington, my other home, there are lots of cities and lots of areas out there competing for these same dollars.

Our job is to try to balance the requests against the availability coming from the Scrooge-like administration, and we have to examine what we have got at the best, what we have at the worst, and to see if we can accommodate those needs that are most pressing.

SUBMITTED QUESTIONS

So with that, unless either of you has a comment, it is always a pleasure to have Ms. Turner here, and Mr. Clymer, you are not all bad. If there is anything that either of you would like to add before we close the meeting, I would like to hear it.

We will submit the rest of the questions for the record.

Ms. TURNER. Thank you very much.

Mr. Clymer. Thank you very much, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

Work Scope of Request

SENATOR LAUTENBERG: Ms. Turner, you are asking for a total of $200 million -- $64.1 million of existing authorized Stark-Harris funds. How does this request break down, i.e., how much for administrative start-up cost; how much for construction claims?

ANSWER: Our fiscal year 1991 Federal Appropriate Request has two components: first, we are asking for $64.1 million for work associated with the 89.5 mile system funded by Stark-Harris. Second, we are also asking for $135.9 million for work on the last 13.5 miles.

89.5 Mile Work	Dollars (in Millions)
Project management	$ 28.0
Start-Up (acceptance testing, initial training, caretaking)	17.7
Construction claims	10.8
Other construction (PMOC, corrison control, instrumentation	7.6
Subtotal Stark-Harris Authorization:	$ 64.1
103 Mile Work	
Design	$ 10.9
Real Estate	14.6
Construction	72.8
Rolling Stock	37.6
Subtotal Re-authorization:	$135.9
TOTAL	$200.0

Obligation Schedule

SENATOR LAUTENBERG: Regarding the $64.1 million, please detail when these amounts will be obligated, and the amounts that will be used for management, start-up costs, other ancillary construction, and claims. Describe what will be purchased with these funds and when the funds will actually be spent.

ANSWER: This informations follows:

89.5 Mile Work	($Millions)	OBLIGATION SCHEDULE Federal Fiscal Year 1991	1992	1993
Project management	$ 28.0	28.0		
Start-Up	17.7	6.4	3.7	7.6
Construction claims	10.8	10.8		
Other construction	7.6	3.2	2.4	2.0
Subtotal Federal:	$ 64.1	$48.4	$6.1	$9.6

Actual expenditures (outlays) will occur during a 1 to 3 year period after obligation, upon completion of services or delivery of products.

Project Management funds construction inspection and all activities in support of construction activities, including: contract administration, legal counsel, auditing, accounting, and various related support activities.

Start-Up money is used to pay for pre-revenue operations expreses, including: acceptance testing, initial training of employees hired to staff the expansion, and caretaking (security custodial, and similar services) after completion of construction, but before commencement of operations.

Construction claims includes funding to meet the Authority's obligations to contractors for work beyond the scope of the initial contract.

Other construction includes minor construction required to efficiently operate a new segment. Examples of work include: leak repairs, improvements to station mechanical systems; remedial work and correction of deficiencies; construction associated with pre-operations testing.

SENATOR LAUTENBERG: Detail when these funds will be obligated and the amounts that will be used for design, real estate acquisition, construction and rolling stock. Describe what will be purchased with these funds and when the funds will actually be spent.

ANSWER: This information follows:

103 Mile Work	Dollars in Millions	OBLIGATION SCHEDULE Federal Fiscal Year 1991	1992
Design	10.9	7.1	3.8
Real Estate	14.6	1.6	13.0
Construction	72.8	-	72.8
Rolling Stock	37.6	37.6	-
Total Federal	135.9	46.3	89.6

Actual expenditures (outlays) will occur during a 1 to 3 year period after obligation, upon completion of services or delivery of products.

Design funds preliminary engineering studies, environmental impact studies and preparation of final design documents.

Real Estate money is used to acquire rights of way for construction of lines, stations, and parking facilities.

Construction funds are used to pay relocating utilities in advance of construction and structural construction of stations, tunnels, aerial structures and surface lines.

Rolling Stock is for procurement of rail cars.

Amount Requested in FY91 Under Reauthorization

SENATOR LAUTENBERG: How much of your request is associated with the reauthorization that you are requesting?

ANSWER: Our request includes $135.9 million in FY 1991 associated with the reauthorization of Stark-Harris.

SUBCOMMITTEE RECESS

Senator LAUTENBERG. Thank you for being here. The next meeting of this subcommittee will be on Thursday, April 5 at 10 a.m. We will have the National Highway Traffic Safety Administrator and the Research and Special Programs Administration appearing here as well.

Thank you very much.

[Whereupon, at 12:38 p.m., Thursday, March 29, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 5.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, APRIL 5, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:05 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Frank R. Lautenberg (chairman) presiding.

Present: Senators Lautenberg and Byrd.

DEPARTMENT OF TRANSPORTATION

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

STATEMENT OF TRAVIS P. DUNGAN, ADMINISTRATOR

ACCOMPANIED BY:

- ALAN I. ROBERTS, DIRECTOR, OFFICE OF HAZARDOUS MATERIALS TRANSPORTATION
- ROSE A. McMURRAY, DIRECTOR, OFFICE OF PROGRAM MANAGEMENT AND ADMINISTRATION
- GEORGE W. TENLEY, DIRECTOR, OFFICE OF PIPELINE SAFETY
- PHILIP COONLEY, ACTING DIRECTOR OF ADMINISTRATION, TRANSPORTATION SYSTEM CENTER

OPENING REMARKS

Senator LAUTENBERG. Good morning. We will call the Subcommittee on Transportation Appropriations to order. This morning we are going to be discussing testimony from the Research and Special Programs Administration, known as RSPA—the acronyms here always get me, but this one sounds fairly easy—as well as the National Highway Traffic Safety Administration, more commonly known as NHTSA.

Both of these agencies are charged with critically important public safety missions. We are first going to hear from RSPA and, while I intend to address all aspects of RSPA's activities this morning, including its critical role in regulating the transportation of hazardous materials, I would especially like to spend some time discussing the Office of Pipeline Safety.

The Exxon pipeline spill back in January resulted in almost 600,000 gallons of oil pouring into a river that separates New York and New Jersey known as the Arthur Kill. A great amount of ecologically sensitive areas were destroyed and a lot of work by citizens of New Jersey in cleaning up the Arthur Kill was undone in just a few hours.

Just a few days ago we saw another pipeline spill of at least 100,000 gallons in the Allegheny River, a pipeline that is located right between a strip mine and a river that serves as the water supply for numerous communities, including the city of Pittsburgh.

When you look at the job being done by RSPA in the Office of Pipeline Safety, you find more than just leaks; you find some gaping holes.

Even though RSPA was solely responsible for the Arthur Kill pipeline, RSPA chose to exempt it from all of its regulations because it was operating at less than 20 percent of its minimum strength. This exemption applies to all such pipelines without regard for their age, their proximity to ecologically sensitive areas, or their risk of external damage.

Even though RSPA formally agreed with the Reagan administration's safety task force that this exemption should be revoked and told this subcommittee last year that this exemption should be revoked, RSPA still has not repealed the exemption.

And who currently determines whether a pipeline does or doesn't qualify for the exemption? The pipeline operators themselves. In fact, the Federal inspection system relies primarily on compliance data that's gathered by the operators. The system obviously seems ripe for abuse.

RSPA has only 15 Federal inspectors, who have not been able to meet their targets for the number and frequency of inspections. The number is too few. In fact, RSPA does not know either the exact amount of pipeline it is responsible for inspecting or the location of all pipelines across the United States.

In 1988 Congress passed a law requiring pipeline operators to map and report the location of all pipelines to RSPA, and yet the agency has not yet published even proposed rules to implement this mandate.

I have introduced legislation to address some of the most glaring weaknesses in the Office of Pipeline Safety, and I would like to get the administration's views on my legislation this morning. I would also like to get an understanding as to how the pipeline office is responding to many of the other weaknesses found by the Department of Transportation's safety task force.

I want to make it clear that my purpose this morning is not just to slap some wrists. If the problem is with resources, I intend to do what I can. But I want to be sure that the structure and commitment is in place in RSPA to address these problems.

INTRODUCTION OF WITNESSES

Both of our lead witnesses this morning are appearing for the first time and we welcome them, Mr. Travis Dungan, the Administrator of RSPA, and Gen. Jerry Curry, the Administrator of NHTSA.

This subcommittee has sensed a new breeze blowing in both of these agencies, a new and a welcome commitment to getting on with the business of ensuring public safety. Despite some early positive signs from both agencies, however, I think it is fair to say that the jury has not even left the courtroom yet. So we will see whether the actions are going to match the good words we are hearing.

Mr. Dungan, let me once again welcome you to the subcommittee. If you would, please identify the people accompanying you, and then we ask you to proceed with your statement.

Mr. DUNGAN. Thank you very much, Mr. Chairman.

On my far left we have Alan Roberts, who is the Director of the Office of Hazardous Materials Transportation. Right here to my left is Rose McMurray, who is Director, Office of Program Management and Administration. To my right I have George Tenley, who is the new Director of the Office of Pipeline Safety; and to my far right I have Phil Coonley, who is the Acting Director of Administration at the Transportation System Center in Cambridge.

I do have a short statement I will make. It is cut down quite a bit from the formal statement.

Senator LAUTENBERG. OK, and we will take your full statement for the record, Mr. Dungan.

STATEMENT OF TRAVIS P. DUNGAN

Mr. DUNGAN. Thank you.

Mr. Chairman, I would like to spend a few minutes just apprising you of some of my views of the Research and Special Programs Administration during the year that I have spent there. I have approached the job with enthusiasm and optimism. It was quite apparent to me when I came to the agency that it needed to be energized, and I spent quite a bit of time becoming acquainted with the senior management staff and looking for good people to help us do our job.

I am pleased to report that I put together a fairly cohesive team, both on the political side and on the career side. We have some excellent people that we brought on board during the past year.

SAFETY ISSUES

We are all aware of the many problems that RSPA has and we are all very committed to handling those and meeting our safety and research objectives. In the safety area, RSPA is best known for our day to day operational responsibilities in pipeline and hazardous materials safety. In addition to those responsibilities, we also are responsible for training about 20,000 inspectors around the country that deal with all different modes of transportation in the field of hazmat, pipelines, and other safety fields, including antiterrorism.

We also have an Office of Emergency Transportation, which is the coordinating office during a crisis within the Department. It provided support this past year during Hurricane Hugo, as well as the Loma Prieto earthquake in San Francisco.

RESEARCH ISSUES

On the research side of this agency, we have two goals, safety and research. We also have the Transportation Systems Center

[TSC] institution in Cambridge that has pretty much labored in obscurity. We have 540 very, very professional and highly qualified individuals who provide 140 million dollars' worth of consulting services every year to other DOT agencies, to the Department of Defense, EPA, and other Federal agencies.

They are completely self-supporting. They have no appropriations. If they do not produce the business that they need to survive, they will sunset.

We also have an Office of Research and Technology, which disseminates technological or technical information that is developed by the different modes. We are responsible for technology transfer, and we also head up the Research and Development Council for the Department, which is a group comprised of all of the associate administrators of the different administrations for research and development.

Finally, we also have the Office of Aviation Information Management, which provides all the economic, financial, and marketing data that different parts of the Department need: the FAA for fitness reviews, as well as the Office of Secretary in deciding international route awards.

PROGRAM ACCOMPLISHMENTS

We have had a number of accomplishments during the past year. We issued a cargo tank rule, which was 5 years in the making. Because of the Valdez incident, we have dedicated a full-time position to cover the Alaskan pipelines, both the current oil pipeline as well as the proposed natural gas pipelines.

We have reinvigorated the Research and Development Council. We now are going to be providing the Secretary with as much information on where the Department should be going in research and development as the budget shop does on the financial side.

Finally, we played a very large role in developing the national transportation policy, in that our Cambridge operation was responsible for all the cross-cutting transportation issues.

PIPELINE SAFETY

My top priority this year is to upgrade the Office of Pipeline Safety. We have an aggressive new management team in place and I have asked them to be proactive and aggressive to get us back to where we should be.

We have asked for an additional nine staff, eight of whom would be on the enforcement side, six would be field inspectors, two would help assist in enforcing here in Washington. We have asked for one other person to help us develop our technical regulations.

We need to do more inspections. We need to cover our jurisdiction better. These resources will help us do that.

We are also requesting $671,000 in new funds to support our State pipeline inspection partners. We think that by adding new funds to this, making this 5 million dollars' worth of assistance to the States, that we should be able to provide an incentive to bring other States into our program as partners.

We also plan on working with some of our other Federal agencies, namely the Department of the Interior in the offshore pipeline area, as well as other agencies such as EPA in the area of onshore terminal tanks.

Finally, we are examining whether we need to take additional pipeline rulemakings to enhance the public safety. We have discovered a number of gaps in jurisdiction or regulation and we are committed to closing those gaps with other Federal agencies.

HAZMAT

For our Hazardous Materials Transportation Office, we have requested two additional inspectors. This office has grown a lot during the past 5 years and has produced a lot, probably putting out more rulemakings in the last year than quite a few previous years.

As Administrator, I will make sure that these two safety programs will continue to receive important attention. My personal involvement in everything that is going on in those offices will help make RSPA what it should be.

On the research side, the Bush administration and Secretary Skinner have made clear their commitment to increased research and development in the transportation area. Because of our operation in Cambridge, we are well positioned to contribute to those goals.

TSC LAND ISSUE

One other issue that I would like to raise with you is a request that we have to provide some flexibility in dealing with the land that surrounds our Transportation System Center in Cambridge. We have 14 acres up there that we would like to use to enhance the TSC and develop as a research, transportation research, and development park. Secretary Skinner and I are committed to this operation. We have no intention of privatizing the agency. It provides a very useful role, which is reflected in the success of its attracting clients.

PREPARED STATEMENT

In closing, Mr. Chairman, I appreciate the opportunity to discuss our fiscal 1991 budget. My staff and I look forward to working with you and your subcommittee to develop RSPA's resource base so that we can continue and improve our safety and research missions.

[The statement follows:]

STATEMENT OF TRAVIS P. DUNGAN

Good Morning, I am pleased to be here today to present the President's budget request for the Research and Special Programs Administration (RSPA) for fiscal year 1991.

Mr. Chairman, since I have become Administrator of the Research and Special Programs Administration, I have focused my attention on the two major functional areas within RSPA which are cross-modal, those being safety and research.

In the safety area, RSPA is best known for its day-to-day operational responsibilities in pipeline and hazardous materials regulations. In addition to these important line responsibilities, thousands of safety inspectors and counterterrorist experts are being trained every year at the Transportation Safety Institute in Oklahoma City. Moreover, RSPA's Office of Emergency Transportation (OET) serves as the Department's multi-modal emergency preparedness coordinator. While OET is one of our smaller offices, it was busy in 1989 providing support during the Eastern Airlines strike, Hurricane Hugo, and the Loma Prieta Earthquake.

On the research side, the Transportation Systems Center performs valuable research for the Department and other Federal agencies. Currently, it is on the cutting edge of providing newer and better technologies to provide enhanced safety, particularly in aviation. RSPA is also home to the Office of Research and Technology which has an important technology transfer function and serves to coordinate the Department's Research and Development Council. Also providing a research related function, the Office of Aviation Information Management collects economic data on the airline industry.

As Administrator, I have several priorities which I would like to briefly discuss.

My top priority is to upgrade the Office of Pipeline Safety (OPS) to meet growing needs as the pipeline infrastructure ages. First, I have placed a new management team in charge of OPS and have asked them to provide more proactive management over the pipeline program.

Secondly, in the fiscal year 1991 budget we are requesting additional resources in the pipeline area, including an increase in Pipeline Safety personnel from 51 to 60. Our plan is that eight of these nine people would focus on the enforcement side, and six of those would be field inspectors. I have been concerned that we need to do more inspections and to better cover our jurisdiction. These resources will help.

We are also requesting an additional $671,000 for the State grant-in-aid program. As you know, in the pipeline area, we have a strong Federal-state partnership. We want to encourage the continuation of this partnership by increasing the amount of funds going to states involved in our hazardous liquid program.

In a third area relating to pipelines, we are examining whether we need to undertake additional rulemakings to enhance the public safety. We are also looking at better cooperative relationships among Federal agencies to adequately cover the pipeline infrastructure. I will continue to focus my attention on OPS to strengthen it to meet current safety needs.

For our Office of Hazardous Materials Transportation, we have requested two additional inspectors. This office has seen continuous growth in recent years as the public becomes more concerned over the transport of hazardous materials. In the last year, this office has issued important rules in subjects such as: Hazardous materials incident reporting; communication standards to aid emergency responders; and cargo tank construction and maintenance practices.

Important rulemakings underway include: Performance-oriented packaging standards (essentially a revision of the Hazardous Materials Regulations); enhanced training requirements for persons engaged in the transportation of hazardous materials; and highway routing standards.

As Administrator, I will work to insure that the pipeline and hazardous materials programs continue to receive the important attention they merit.

With regard to research, the Bush Administration is committed to deploying more resources to help keep America competitive. The Secretary's newly announced National Transportation Policy focuses heavily on enhanced transportation research. RSPA, with its several research functions including TSC, is well positioned to contribute to these goals.

One other issue of note in the RSPA budget is the request to change existing statutory language to allow the Department to evaluate and consider alternatives regarding use of the federally owned land at the Transportation Systems Center. Such alternatives would be designed to enhance the TSC and could include various approaches, such as a public/private partnership to expand research in transportation. We will be pleased to work closely with your subcommittee on this issue.

BUDGET REQUEST

In order for RSPA to implement fully and effectively these programs, and to continue both President Bush and Secretary Skinner's commitments to protect the public against risks inherent in the transportation of hazardous materials, RSPA is requesting a total of $27,523,000 for fiscal year 1991. This total reflects $16,723,000 for Research and Special Programs and $10,800,000 for Pipeline Safety, the latter of which which is funded entirely by user fees up to the amount prescribed in the annual appropriation.

Highlights of RSPA's request are as follows:

An increase of $1,546,000 to fund the cost-of-living increases, performance awards, the Federal Employees Retirement System, and seventeen (17) new positions in RSPA, including: Nine positions in the Office of Pipeline Safety—two for pipeline safety enforcement; six for pipeline safety field offices and one for pipeline safety regulation; two positions in the Office of Hazardous Materials Transportation to increase the total number of safety inspectors to 24; three positions in the Office of Program Management and Administration to establish a Headquarters procurement activity needed to support the critical contracting needs of the Washington staff; two positions in the Office of Chief Counsel to provide support for the increased level of enforcement in both the hazardous materials safety and the pipeline safety programs and to provide support for the transfer of RSPA's procurement function from the Transportation Systems Center (TSC) to headquarters; and one position in the Office of Aviation Information Management to provide ADP support for work necessary to maintain useful aviation economic information and ADP services for DOT program purposes.

An increase of $343,000 in other administrative costs to fund general adjustments in administrative categories. These categories include increases in rental payments to GSA; increases in the working capital fund; small increases in the printing, supplies and equipment accounts; the addition of a training account and increases in travel accounts to fund additional inspection activity.

An increase of $671,000 in grant money to fund the natural gas and hazardous liquid pipeline safety grant-in-aid program. This funding is provided to States adopting and enforcing the Federal rules for intrastate natural gas and hazardous liquid pipelines.

Continued support for transportation and logistics research and analysis at the Transportation Systems Center (RSPA/TSC). Although no budget authority is requested for RSPA/TSC, we are committed to the needs of the Office of the Secretary of Transportation, the DOT operating administrations, and other Federal organizations in national transportation policy development, safety, security and infrastructure modernization.

PROGRAM OVERVIEW

OFFICE OF PIPELINE SAFETY (OPS)

RSPA is requesting an appropriation of $10,800,000 to carry out the Department's pipeline safety program. Included is $5,075,000 for operations and $725,000 for research and development. We are requesting a total of $5,000,000 for pipeline safety grants to the states—an increase of $671,000 over the fiscal year 1990 level.

Under the Natural Gas Pipeline Safety Act (NGPSA) the Secretary is directed to establish safety regulations for facilities used in the transportation of natural gas and other gases by pipeline, both interstate and intrastate. Similar authority, the Hazardous Liquid Pipeline Safety Act (HLPSA) applies to the interstate and intrastate transportation of hazardous liquids by pipeline.

OPS has continued to improve the management of the enforcement program. A comprehensive review was conducted during 1989 to: (1) assess the feasibility of continuing the 2.5 year inspection cycle; (2) identify improvements that could be made to the pipeline safety inspection program; and (3) determine the resources that would be required to effectively carry out this program.

In the regulatory program, Notices of Proposed Rulemaking (NPRM) are being considered for a number of areas which include training and qualification standards for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines; requirements that pipeline maps and records be maintained to show the location and pertinent characteristics of pipelines, and that the information be provided upon request to state agencies for emergency response purposes; and requirements for maintaining inventories of pipeline facilities.

RSPA has continued to study the failure data of electric resistance welded (ERW) pipe manufactured prior to 1970. For those liquid pipelines that are operating at their design pressure without benefit of a prior hydrostatic test, there is no proven margin of safety. We plan to issue an NPRM which will propose either hydrostatic testing of hazardous liquid pipelines that have never been tested using standards for new pipelines, or a reduction in maximum operating pressure that will produce an equivalent safety margin.

The fiscal year 1991 funding level requested for pipeline safety research and development will provide further development of data management software and data analysis programs, including cost and risk analysis. It will also allow RSPA to continue important ongoing projects, which include studying the comparability of safety requirements of hazardous liquid pipelines and gas pipelines; evaluating new pipeline component technology; studying hydrostatic test methods and retest intervals; and expanding the study of the feasibility, safety, cost, and effectiveness of requiring operators to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations.

The cornerstone of the Federal/State partnership that has proven so successful over the years is the State grant-in-aid program prescribed in the NGPSA and HLPSA. Forty-six States, Puerto Rico, and the District of Columbia have developed gas safety programs by adopting Federal pipeline safety regulations and enforcing them with respect to intrastate operators with substantially the same sanctions as those employed by the Department.

OFFICE OF HAZARDOUS MATERIALS TRANSPORTATION

RSPA is requesting an appropriation of $9,719,000 to carry out the hazardous materials transportation program. This figure includes $8,594,000 for operations and $1,125,000 for research and development. It reflects an increase of two (2) positions for hazardous materials inspectors.

This budget level will enable RSPA to continue an aggressive rulemaking and enforcement program. It will also further our Federal/State partnership by augmenting the technical assistance we can provide to State enforcement programs through the Cooperative Hazardous Materials Enforcement Development (COHMED) program.

The safety record for the transportation of hazardous materials in the United States has been relatively outstanding. Last year, of the 7,476 reported incidents nationwide involving hazardous materials transportation, there were 4 fatalities and 316 injuries.

I am committed to ensuring that this excellent safety record is maintained or even improved. The budget for fiscal year 1991 will enable RSPA to continue to improve hazardous materials transportation safety through a multifaceted program that focuses upon: (1) research and rulemaking; (2) inspection and enforcement; (3) emergency prevention and response support; and, (4) information and analysis.

RSPA expects to be extremely active in the rulemaking area during fiscal year 1990. We plan to address a variety of topics, including: cargo tank safety, comprehensive training requirements, and transportation of air bag inflators and modules for passenger restraint systems.

In our largest and most comprehensive regulatory initiative to date (known as Rule HM-181), we will propose the adoption of performance-oriented packaging standards and an improved hazard classification system.

In fiscal year 1990, RSPA will complete a major research project on the development of specific accident survival performance criteria for the packaging of bulk quantities of materials that are toxic by inhalation or pose other high hazards. In fiscal year 1991, RSPA will initiate validation testing of the design methodology and performance testing standards which are critical for implementation of accident survivability criteria.

INSPECTION AND ENFORCEMENT

During fiscal year 1990, a primary goal of RSPA's inspection and enforcement program has been to increase the number of inspections performed and to reduce the rate of non-compliance. We also have continued to expand the scope of our enforcement efforts through cooperation with other agencies—within DOT, elsewhere in the Federal government and at the state level.

In fiscal year 1991, RSPA plans to develop an information program which will ensure that those who use the Emergency Response Guide (ERG) are made aware of the changes in the 1990 edition. This is a new program initiative to support distribution with additional guidance on correct use of the guide. Emphasis will be placed on public protection, new chemicals and protective equipment.

RSPA maintains a wide variety of hazardous materials databases and information systems which are referred to collectively as the Hazardous Materials Information System (HMIS). The HMIS is a direct-access system with multiple users at different locations who use it for a wide variety of analytical enforcement and training applications. In fiscal year 1991, RSPA plans to continue system modifications and improvements on the HMIS as part of the multiyear program of necessary enhancement designed to reflect and incorporate regulatory changes. It will also expand the system's capacity to respond to the additional demands being placed on it by the expanded user community.

RSPA also represents the United States in several international forums that develop international standards for the transportation of hazardous materials. Application of international standards by governments throughout the world can have a profound impact on U.S. exports of hazardous materials.

RSPA's objective is to ensure that the standards adopted by these international bodies provide satisfactory levels of safety and do not create artificial barriers to entry to the U.S. hazardous materials industry. It is in this spirit that we are attempting, through HM-181, to harmonize domestic and international standards in a manner that will not compromise established levels of hazardous materials safety.

TRANSPORTATION SYSTEMS CENTER [RSPA/TSC]

RSPA/TSC, located in Cambridge, Massachusetts, is the Department's transportation and logistics research and analysis center. Both through in-house work and contracting out, RSPA/TSC provides study, analysis, system's development and research to meet the needs of Office of the Secretary of Transportation, the operating administrations, and other federal organizations. No budget authority is requested for fiscal year 1991 because RSPA/TSC is funded through a Working Capital Fund, financed entirely through negotiated agreements with project sponsors. RSPA/TSC's program level reached $126 million in fiscal year 1989, and is estimated to be at least $140 million in fiscal year 1990 and $151 million in fiscal year 1991.

The Center currently has about 350 active projects, ranging in annual obligations from under $100,000 to over $10,000,000. About three quarters of RSPA/TSC's work is conducted for Department of Transportation agency sponsors.

The fiscal year 1991 budget contains proposed language as a General Provision that would allow the Department of Transportation to evaluate and consider alternatives which enhance the flexibility of the Department regarding the use of federally owned land surrounding the Transportation Systems Center (RSPA/TSC). Such alternatives would include various approaches along the lines of a public/private partnership to expand research in transportation. However, the current statutory restriction prevents us from identifying and evaluating alternatives. We look forward to working with you to allow the Department the flexibility to evaluate and consider the alternatives.

OFFICE OF AVIATION INFORMATION MANAGEMENT [OAIM]

The AIM program provides scheduling, financial and traffic information resources, and support services necessary for the Department to make informed and timely decisions concerning operations of air carriers. OAIM is the primary source of information on the economic and operational aspects of the air transportation industry. Current users of the AIM program's basic data products and services include: The Federal Aviation Administration for safety surveillance and analysis, airport development funds allocation, airport policy development, and airway facilities requirements forecasting; and The Office of the Secretary for flight delay information, international policy development including negotiation of routes, carrier selection, fares and rates, fitness determination and industry monitoring. Other users include the Departments of Justice, Commerce, Labor, the General Accounting Office, the Securities and Exchange Commission, the U.S. Air Force and the general public.

The fiscal year 1991 budget request for AIM operations is $2,442,000. The request provides for the continuation of basic AIM program activities and user services at a level comparable to fiscal year 1990.

Routine AIM data collection and processing activities will be partially funded with user reimbursements from FAA and a few nonfederal parties in fiscal year 1991 and fiscal year 1990. AIM's fiscal year 1991 budget also requests an additional position to accomplish the basic minimum level of work required to service all of its users.

In fiscal year 1991, AIM will complete first full-year operations of a major new data collection system (T-100) that improves U.S. and foreign air carrier reporting of traffic statistics by service segment and market. The single standard system will contain data for both U.S. and foreign air carriers, domestic and international operations, scheduled and charter flights, and passenger and cargo service.

AIM plans several major rules in fiscal year 1990 to standardize the Department's economic reporting threshold for large vs. small air carriers and implement a subset of T-100 traffic data reporting for commuter air carriers to reduce their reporting burden and integrate their traffic data with large air carrier reports.

In fiscal year 1991 we plan to complete a major study begun in fiscal year 1990 to evaluate the alternative sources for Passenger Origin-Destination Survey data in view of changes in the air transportation industry and DOT needs. A proposed rule may be pursued that seeks to improve the survey's data.

OFFICE OF RESEARCH AND TECHNOLOGY [ORT]

ORT maintains oversight of the research and development programs conducted by the Department to assure that the programs are relevant, cost-effective, and responds to the needs of Federal, State and local officials, academia, and the transportation community. ORT also coordinates the adoption of radionavigation systems and supports the university transportation center programs funded by the Department.

Working through the Department's R&D Coordinating Council, ORT helps identify for the Secretary needs and problem areas for new research. It works with, and provides advice to, the formulation process for the other Operating Administrations as they develop their research agendas.

ORT also coordinates the development of radionavigation and communication systems and policy dealing with them, throughout the Federal government, and on an international scale. The Office prepares the biennial Federal Radionavigation Plan, which guides the evolution of the navigation systems serving both the civil sector and the military. It has a particularly key role in evolving civil sector applications for the new Global Positioning System (GPS).

OFFICE OF EMERGENCY TRANSPORTATION [OET]

OET executes the statutory and administrative responsibilities of the Secretary of Transportation in the area of national security and domestic emergency civil transportation policy. These responsibilities include planning and management of Departmental emergency program activities, and the development of emergency planning policy for and coordination of the activities of other elements of the Federal transportation community, the civil transportation industry, and state and local authorities.

OET managed the successful transportation response to several serious disasters, most notably the Loma Prieta earthquake, and was deeply involved in the Eastern Airlines strike situation.

For fiscal year 1991, OET is requesting $999,000, an increase of $99,000, to support the operational activities and to continue its research and development activities.

TRANSPORTATION SAFETY INSTITUTE [TSI]

TSI is the DOT's primary multi-modal provider of transportation safety and security training and related technical assistance. During fiscal year 1989, approximately 17,000 students were trained in TSI sponsored classes. An additional 90,000 students were educated through active extension programs, primarily reaching state and local government transportation personnel.

As a reimbursable activity, RSPA provides executive oversight and direction to TSI on behalf of user organizations which now includes seven DOT administrations as well as the Departments of State, Defense, the General Services Administration and the National Transportation Safety Board. These resources also allow TSI to sponsor seventeen safety and security programs. A new advisory board, with representatives from each sponsor and chaired by the Administrator, RSPA, provides critical input for the operation and direction of the Institute.

STATISTICS, DATA AND INFORMATION

RSPA has the responsibility within the Department for planning, developing and maintaining a coordinated transportation statistics and information program. The program is responsible for the collection, analysis, and dissemination of technological data, economic data, and other types of domestic and international transportation information. The fiscal year 1991 request for this program is $110,000, a reduction of $24,000 in fiscal year 1990.

CONCLUSION

In conclusion, Mr. Chairman, I appreciate the opportunity to come before you today to discuss the fiscal year 1991 Research and Special Programs Administration budget. As the transportation industry moves into the 21st century RSPA is strengthening both safety and research policies. Concurrently, we also hope to increase RSPA's inspection and enforcement activities by requesting additional resources. I hope you agree that these increases are needed and justified.

BAYWAY SPILL

Senator **Lautenberg**. Very good, Mr. Dungan. We thank you for your statement and we appreciate the positive attitude that you bring to this assignment, that we consider a very important agency, albeit small, relative to government agencies.

The fact is you have got, I think, an interesting background to help you manage this Department. You are young enough to have the enthusiasm. And if I did not know, I would say the operation in Cambridge would have been one that you would have preferred, but that was there before you got there, based on some educational time you spent.

As you know, the pipeline under the Arthur Kill that gave rise to the Bayway spill was an interstate pipeline and thus RSPA alone was responsible for regulating it. Yet your agency was not regulating it, since it was subject to the exemption that we discussed, which was granted to all pipelines operating at less than 20 percent of its minimum strength.

Do you know how we got to this situation, where all of these pipelines at less than 20 percent of their minimum strengths were granted that blanket exemption?

Mr. **Dungan**. Yes, sir; I was not here during the period in which it took place, but the logic behind that was that generally pipelines that are operated at less than 20 percent of SMYS, or we can say capacity, have had a very good track record. Given the very limited resources that we have had in the pipeline office, we have chosen to give priority to those pipelines which were operating at full capacity or anywhere over 20 percent of capacity.

Based upon what happened at the Arthur Kill, we are going to go back and reevaluate that. What we need to do is come up with a mix of supervision that is related to the actual risk involved in a particular pipeline, and when we are dealing with environmentally sensitive areas we perhaps should be regulating those lines even if they are operating under 20 percent.

We will go to rulemaking this summer on that and it appears that we may make some changes. We will go through the administrative process and we will take it from there.

But I am well aware of the problem up in New Jersey and concerned about it.

Senator **Lautenberg**. You mentioned that you would be looking at those that might be in environmentally sensitive areas. But of course, when you look at the age of some of these pipelines and the effects of being there, whether in the water or in the ground, the fact is that corrosion takes place.

I think what we are going to have to do is examine this in such a way that we get a handle on what the condition of these things is. I am sure there is a way to develop a model that would tell you that materials made of a given substance are likely to be defective. The 20-percent figure really does not mean a lot, as I see it.

I hope that as you look at it you will try to understand what it is that we have at risk, even if it is not in an environmentally sensitive area.

PIPELINE INSPECTION EXEMPTION

How many miles of pipeline are exempted from your regulation as a result of the 20-percent exemption?

Mr. **Dungan**. Well, I was surprised when I arrived at RSPA to learn that we did not know how many miles of pipeline were subject to the 20-percent exemption or even the numbers of miles of pipeline that we regulate. I would have to say that——

Senator **Lautenberg**. Exempt is exempt, I guess.

Mr. **Dungan**. It is exempt, and we have never really had the resources to go out there and count up what is exempt from our responsibility.

Senator **Lautenberg**. Who makes the determination that a given pipeline qualifies for this exemption?

Mr. **Dungan**. Well, as is similar to the other modes of government, we rely upon voluntary compliance. We allow the companies to let us know when they are operating over 20 percent of capacity, and then they are subject to our regulation.

Senator **Lautenberg**. In your view, knowing what you have learned here, what we have all learned, do you think that we ought to trust the operators to give us this information? This does not suggest dishonesty. What it does to me is raises the question of whether or not this is something that a company would want to bother with if, in their casual judgment, a pipeline qualified for the 20-percent exemption. Do you think we ought to trust those people to make that decision?

Mr. **Dungan**. I am not sure who exactly else we can trust to make that. Maybe George Tenley would like to address the question.

Mr. **Tenley**. I think generally the Arthur Kill experience does not mean that we cannot trust the operators to give us the information. But in the past the regulatory system has not required them to keep a great deal of information, and certainly we are now under a mandate to produce a rulemaking on maps and inventory, in which operators will be required to develop such information and make it available, both for our inspection as well as States.

I think we are moving toward that, but there is a lack of such information right now that we cannot deny.

INSPECTION PENALTIES

Senator **Lautenberg**. What is the penalty for not reporting or not indicating that——

Mr. **Tenley**. Our penalty schedule provides for $10,000 per violation, up to $500,000 for any related series of violations. And we also have criminal penalties as well as injunctive relief and administrative injunctive relief.

Senator **Lautenberg**. Do you know how many times penalties have been administered?

Mr. **Tenley**. You are asking me a general question or just with respect to the information we are talking about?

Senator **Lautenberg**. To this, relative to this 20-percent exemption.

Mr. **Tenley**. I would do my best to provide that for the record.

Senator **Lautenberg**. Yes.

[The information follows:]

We have not encountered a situation in which an operator claiming to be covered by the 20 percent SMYS exception was in fact not covered, and therefore, no penalties have been assessed.

REVOCATION OF 20-PERCENT EXEMPTION

Senator **LAUTENBERG**. The Department of Transportation Safety Task Force report issued some years ago recommended that the 20-percent exemption be revoked. At the time of that report, RSPA said that it agreed with the recommendation and intended to publish an advanced notice of proposed rulemaking in this area to repeal the exemption.

Has the proposed rule been published? If not, why not?

Mr. **DUNGAN**. That rule has not been published. It has been a matter of priorities. It is also the reason why I have appointed a new Director of that office, to make sure that these things get done on time.

The track record is not good.

Mr. **TENLEY**. Can I add to that, Mr. Chairman, if I might? I think it is important to note that when the Secretary's task force report came out in January 1989, we had just inherited the mandated requirements of the 1988 Reauthorization Act and those are very substantial undertakings.

We are talking about one that is not out yet, maps and inventories for example. So absent an Arthur Kill, which we subsequently had, we had to prioritize where we placed two rulemakings on 20 percent of SMYS. And given the safety record, it was in a relative position. It has now been elevated because of the Arthur Kill and attendant concerns.

Senator **LAUTENBERG**. So what are the prospects? What would you say is the target date?

Mr. **TENLEY**. Well, we are going to be going to a notice in the Federal Register no later than August this summer. We are going to put it on a short fuse and we are going to have a comment period adequate to get sufficient comments, but not too long to delay the rule.

We are going to expedite the review of the comments and we hope to have a rulemaking completed within 1 year.

Senator **LAUTENBERG**. Can we get this into the Register before August?

Mr. **TENLEY**. We can try, but we have some very important things that relate to some of your other interests, for example hydrostatic testing of liquid pipelines. So we are going to do our best, but I am trying to give you a fair assessment.

Mr. **DUNGAN**. If I could just add to that, every pipeline in this country that was installed before 1970 that carries liquid product has not been hydrostatically tested, and one of our top priorities is making sure that the pipes that are operating at 100 percent of capacity are safe.

So it is a matter of relative priorities. But as George mentioned, the Arthur Kill has elevated this to a new level of concern.

Mr. **TENLEY**. I do have to make one amendment to Travis' statement. Pre-1971 hazardous liquid lines may or may not have been hydrostatically tested. In fact, many of them were tested. But absent us knowing that, we are going to require operators to hydrostatically test those lines that were not tested. That is what we are looking at as a proposal.

CAUSE OF BAYWAY SPILL

Senator LAUTENBERG. Well, you have got a lot of things to do there, and obviously conditions have revealed to us the weaknesses and the inadequacies. And that is, I think, what we are going to finally conclude here, that we do not have sufficient resource to do this job.

There is a new awareness across the country about the destruction of the environment, the potential contamination of water supplies, and the people are just not willing to accept that any more as a risk.

I understand that the investigation on the Exxon Bayway pipeline spill has not yet been completed. What can you tell me thus far about what the likely cause of that spill was?

Mr. DUNGAN. The NTSB is conducting the full investigation. Based upon preliminary evidence, we believe it was outside force damage, something like a ship's anchor actually hitting the pipe and either creating a leak at that time or creating a weakness.

Senator LAUTENBERG. Essentially, an external force of some nature, right?

Mr. DUNGAN. Yes, sir.

Senator LAUTENBERG. We get a view of this Buckeye pipeline spill. It looks like that also may have come about as a result of an external force. And in last year's testimony we were told that the agency intended to publish a final rule requiring all pipeline operators of liquid pipelines, such as the Exxon pipeline, the Buckeye pipeline, to establish damage prevention programs from external forces.

At the time we were told that we would have a final rule published May 1989. Now, what is the status of that rule?

Mr. DUNGAN. George?

Mr. TENLEY. Unfortunately, it too has languished. But again, I am pushing to have a final rule out this summer. It is a critical rulemaking and it is, frankly, one that we should have moved on earlier.

PIPELINE INSPECTION NONCOMPLIANCE

Senator LAUTENBERG. The rate of noncompliance found by your inspectors for hazardous materials is roughly, according to previous testimony, 40 to 60 percent. Now, does that tell you something about whether or not the threat of fines or actions by OPS has a serious effect on the behavior of pipeline operators? Might they just take the attitude that a periodic fine for noncompliance is merely a cost of doing business in our industry?

Mr. DUNGAN. I would say that the pipeline operators have become more aware than ever that it costs them a lot more than the fine. I mean, the cleanup to one of these activities runs in the millions of dollars.

George, do you want to add anything?

Mr. **Tenley**. Knowing a little bit about both programs, having been counsel and having been involved with enforcement actions in the RSPA, I think that on the pipeline side the tendency since 1986 is to assess larger penalties than ever previously used before.

But we also have to point out the fact that we operate under a compliance statute, as opposed to a pure enforcement statute. We cannot assess a civil penalty until we consider certain criteria, which leans greatly toward mitigation of penalties.

I think it is important that we have more enforcement, honest, frank, speedy enforcement, with appropriate penalties. I think we are doing a good job with higher penalties. I do not know if we have done a good enough job yet in getting the cases out in a timely fashion and going after the noncompliance that we found. We have to do better in that area.

NUMBER OF PIPELINE INSPECTIONS

Senator **Lautenberg**. At last year's hearing you noted that, while your target number of inspections for 1989 was 480, you were not going to be able to reach that target. This year I see again that your target number of inspections is 480. Is that also going to be a nonreachable number?

Mr. **Dungan**. Yes; it is. We have taken a look at the way the numbers were calculated as far as a 2½-year inspection cycle. What we found is that that simply is not doable, and also that it was strictly an arithmetic calculation, taking the number of inspections we thought we could handle in the course of a year and then using the 2½-year cycle.

I have asked the pipeline safety office to come back with a more reasonable plan. And essentially, the way we will be approaching this is through a risk-based system called PIPP, the Pipeline Inspection Priority Program, which gives us information on the risk involved in each pipeline. We will be using that to determine our priorities, and we will inspect the pipelines that we suspect of having problems more often than the ones that we know are not having problems.

DELAYS IN RULEMAKING

Senator **Lautenberg**. It is too bad that we have to take a priority in examination of risks when, in fact, there is a reason for all of these inspections to be done. You know, one of the questions that we get is these delays in rulemaking. Mr. Tenley, you are familiar with this. You have been around a bit. Are the delays at DOT or OMB?

Have the regulations cleared DOT for the rules that you intend to put out there?

Mr. **Dungan**. No; the problem is merely having a full plate at RSPA. We have had a combination of mandates by Congress through the various reauthorization acts, as well as many NTSB recommendations made, and in trying to handle all of this we have to set priorities as to which ones we think present the most risk to the public and the environment.

Senator LAUTENBERG. Well, it sounds like you are under-resourced. I mean, as we run through this what we get is a continuum of, let me say, reasons or perhaps better identified as excuses.

This does not suggest that you do not want to do it, but that there are reasons why these things are not moving along. Just to help me out, what is the average period of review of your regulations at OMB? Weeks, months? It sure does not break down into minutes or hours.

Mr. DUNGAN. We can get that for the record. Generally, in the pipeline area we have not had problems getting through OMB. It is simply the number of activities we are pursuing at any one time.

[The information follows:]

The OMB review averages several weeks.

Mr. DUNGAN. We were discussing this yesterday and we came up with the phrase that we are swamped but sincere.

Senator LAUTENBERG. Swamped or sincere sounds like SOS to me.

Mr. DUNGAN. Swamped and sincere.

Senator LAUTENBERG. All right. I changed it to fit the acronym.

Mr. DUNGAN. That is the reason why we have asked for nine new people in the pipeline area. And as we have proceeded in the past year, we have started to realize the real problems that we have in getting these rulemakings out, and I would say that we will probably be going for a similar number of additional people next year.

My predecessor over 5 years doubled the size of the Hazardous Materials Enforcement Program and really did great things in getting that program put together and having an adequate staff. I view it as my responsibility to take a look at the pipeline side, where we have 2 million miles of pipelines and 15 inspectors, and trying to get our staff up to speed and operating efficiently so that we handle the responsibility successfully.

2.5-YEAR INSPECTION CYCLE

Senator LAUTENBERG. We were told last year that pipelines, all pipelines, would be inspected every 2.5 years, unless that decimal point is in the wrong place and it is 25 years.

Do you expect to reach that goal in the first quarter of 1990? The same thing—you have not reached it. Why not?

I mean, your predecessor may have put through a good organizational program, but the fact is, we are going to be measuring this by results and not effort. And you have got to come here and at least make your needs known in a serious way to accomplish all of these things.

I am sure you would not like to sit as the Administrator of these programs and have to say, well, we did not do it because of the following reasons. At some point you have to say, if I am going to do this job, I am going to need—and I do not know whether nine additional people does it for you or not.

Mr. DUNGAN. Well, what I have found in my government experience is that trying to expand a program by 50 people at a time is very hard to accomplish, simply because you cannot absorb all the people and train them and get them up to speed.

NUMBER OF PIPELINE INSPECTORS

Senator **Lautenberg**. How many inspectors do you currently employ for the entire Federal force effort?

Mr. **Dungan**. In the pipeline area we have 15 inspectors.

Senator **Lautenberg**. And you are now asking for?

Mr. **Dungan**. We will be—out of the nine people we are asking for, six of those will be inspectors.

Senator **Lautenberg**. To get you up to 21.

Mr. **Dungan**. Right.

Senator **Lautenberg**. Whose data are they reviewing and who accumulates that data?

Mr. **Dungan**. Let me give that to George.

Mr. **Tenley**. It is a follow-on to your earlier point. A lot of what we rely on are the records required of operators to be kept on various aspects of their operations, as well as records that we have generated historically, both from annual reports and prior inspection reports.

Senator **Lautenberg**. Because I have a particular interest in the New Jersey and New York area, how many inspectors do you have covering that area?

Mr. **Tenley**. Well, we are authorized to have two inspectors and one region chief. Right now we have one inspector and one region chief. We are down to two.

REGULATED PIPELINE

Senator **Lautenberg**. You are not too certain of how many miles of pipeline there are, either in the less-than-20-percent group or that above. What is the number, the volume of pipeline that we have outside the exempt area?

Mr. **Tenley**. In that region? I would have to supply an exact number for the record, but I would say that the Eastern region in relative proportion to other regions has fewer pipelines than, say, the Midwest or the Southwest region.

[The information follows:]

We regulate approximately 155,000 miles of hazardous liquid pipelines nationwide. We do not collect data which gives us mileage by state.

Senator **Lautenberg**. They are also likely to be in more densely populated areas.

Mr. **Tenley**. Correct.

Senator **Lautenberg**. And in more isolated areas of ecological sensitivity, where we have to work hard to protect both human life and the environment.

Mr. **Tenley**. Mr. Chairman, may I make a statement about that point? It is very important. If you look at our statute in which we operate, you will not see the word "environment." However, in the last 2 to 3 years it should be very clear that on the hazardous liquid side the impetus has turned toward the environment and away from safety.

A lot of what you and I might want to do in the regulatory side we probably could not do using safety as the sole predicate, given the record. But on the environmental side, we now have a new challenge. So we are very much in a transition phase on the whole liquid pipeline side, and it is driving a lot of what you and I are talking about this morning.

LOCATION OF REGULATED PIPELINES

Senator **LAUTENBERG**. You are absolutely right.

Another regulation gone begging is the one that deals with the location of the Nation's pipelines. Do we know where they are in this country? Do we know where all the pipelines are?

Mr. **TENLEY**. Well, frankly, we know where a lot of them are located. What we know is that we cannot open up a drawer and pull out a national registry of all pipelines. But the pipeline industry groups and associations do produce good maps and have a good idea of their location.

Operators themselves are required to keep information which tells us when we inspect them where their lines are located. But the idea of a one-stop location for all the pipelines and the nature of those pipelines does not exist. I do not want to paint a picture that we do not know where they are, we do have the wherewithal to know where pipelines are located.

Senator **LAUTENBERG**. It might, however, take you some time in an emergency situation to find out exactly what is in it specifically?

Mr. **TENLEY**. One of the goals of that rule is to enhance that capability.

Senator **LAUTENBERG**. And the technology is there, so easily available, to corral all this information, put it in a data bank, and to have it virtually near at hand. We have to make sure that the information flows in to build that kind of a data base.

Once done, I think it is easy. It is too bad that something as sensitive as that is in the condition that it is.

VIEWS ON S. 2323

You are aware of the legislation that I have introduced, numbered S. 2323, to take steps to address the problems we have just discussed. Under this legislation, OPS would be required to repeal the regulatory exemption now provided to the less than 20 percent strength pipelines; and, importantly, it would require OPS to grant exemptions only on a case-by-case basis, and when doing so it would have to take into account the age of the pipeline, the proximity of the pipeline to fragile ecosystems, the operating pressure of the pipeline, and the likelihood of the pipeline's exposure to the danger of external forces.

The bill would also require OPS to publish regulations requiring pipeline operators to have a leak detector in place and to receive the appropriate level of training and certification in standards.

What are your unbiased views on my legislation as you sit in front of my committee? [Laughter.]

Mr. **DUNGAN**. Well, the Department has not taken a formal position. We are acting on this 20 percent of SMYS regulation through the rulemaking process. But it looks like you may beat us to the gun.

Senator **LAUTENBERG**. Well, I do believe that you have a serious commitment to meeting your task? Why would you not support this legislation? Can you think of any reason why you would not support it?

I am serious now.

Mr. DUNGAN. In a perfect world, where we had unlimited resources, we would look at all pipelines. We would not make a cut and say pipelines that are of low volume, we will not regulate them.

Senator LAUTENBERG. But they are the ones that escape attention. So the least we ought to do is to get those under the magnifying glass so we can recognize the potential for problems.

I would hope that we could generate a little more enthusiasm, and tell us, have your office tell us, what you think ought to be included and tell us why you think the legislation does not fit a serious need.

Mr. TENLEY. Mr. Chairman, if you are looking for an endorsement, I can say this to you: We have not taken a position. You used the expression "a magnifying glass." I would say that the seven, eight, or nine items that you list in your bill provide us with a magnifying glass to look at in our rulemaking.

I think the things that you have touched on are the very things that we will be looking at in order to decide who is in and who is out, as opposed to a judgment made in 1970 that said, "merely because of resources and stress, we are not going to regulate the line."

PERSONNEL COMPENSATION AND BENEFITS SHORTFALL

Senator LAUTENBERG. And now, a different world.

There is, I understand, a shortfall in the personnel pay account for 1990 and 1991. Is that true?

Mr. DUNGAN. Let me turn that question over to Rose McMurray, who is Director of Program Management and Administration.

Ms. MCMURRAY. Yes, sir; we have looked at the "Personnel compensation and benefits" account for the Pipeline Safety Office and as far as we can determine, when the pipeline appropriation was broken out from the RSPA appropriation several years ago, there was an underfunding of the PC&B account.

We are now examining in-house alternative solutions for restoring the base of PC&B to an adequate level, and we will be working with our counterparts in the Office of the Secretary, as well as OMB, and subsequently with your staff, to seek your indulgence in approving that base on our salaries and expenses.

Senator LAUTENBERG. Is there any effect of this shortfall on your efforts to fill the positions in OPS?

Ms. MCMURRAY. No, sir; we have adequate resources to cover those expenses.

Senator LAUTENBERG. Are you currently at your full complement of staff? Have you hired all the inspectors you intend to hire? Has this inhibited you in any way from getting the appropriate staffing levels that you need to do this?

Mr. DUNGAN. We have been able to find the money to hire people and add them to our staff.

There were a lot of accounts funding other accounts, and we are going to provide in the next budget cycle a budget which reflects what we really need for each program that we are responsible for.

Senator LAUTENBERG. Your candor is appreciated, and when we have a chance to meet over the coming months, we will try and get all of those things behind us so we can deal forthrightly and get on with this task.

PIPELINE GRANTS

Under the State grants program for pipeline enforcement, the States, as I understand it, that get the grants-in-aid program take responsibility for regulating and enforcing intrastate pipelines within their States. Those States which choose not to adopt the Federal regulations are not eligible for grants, and the intrastate pipelines in those States are regulated by your office directly.

Is that correct?

Mr. DUNGAN. Yes.

Senator LAUTENBERG. How many States currently participate in the grants program?

Mr. DUNGAN. I believe that it is about 42—46 States and the District on the gas side.

Senator LAUTENBERG. Have any States ever withdrawn from the grants program and offered to let you take it over?

Mr. DUNGAN. Yes; as a matter of fact, it has just happened in the case of Washington State.

Senator LAUTENBERG. Why did they do that?

Mr. DUNGAN. They did not believe that the funds available to them were adequate to fund the program. Right now I believe that, while the legislation provides that we can grant the States up to 50 percent of their operating costs, I believe we are now funding them to the extent of about 27 percent. That is one of the reasons why we sought an increase this year in the grant funding.

Senator LAUTENBERG. In your view, if the prohibition on States regulating interstate pipelines were repealed, would these pipelines be subject to tougher or weaker regulations?

Mr. DUNGAN. Well, we actually have a program on the liquid side where we have two States that actually do handle our responsibility for interstate inspection, and then we do enforcement. So we have two States that presently are interstate agents, and we will not allow a State to do that unless we believe that they are fully up to speed and able to inspect just as we would be able to do with our inspectors.

PIPELINE SAFETY ACCOUNT

Senator LAUTENBERG. On the pipeline safety fund budget, it shows that there is a $17.5 million surplus in the pipeline safety fund. What is the surplus attributable to?

Mr. DUNGAN. Let me give that to George.

Mr. TENLEY. The pipeline safety user fee program was adopted in 1986 and collections began in 1986, but for 1986 and 1987 Congress did not provide the authority to tap into the fund. So those receipts that came in in 1986 and 1987 account for that $17 million surplus.

Senator **Lautenberg**. Given the clear staffing problems that have come to light here, why are you not asking us to provide a greater level of resources to this area altogether, especially given the fact that we have that surplus?

Mr. **Tenley**. Well, that is going to require legislation, and the question is, why have we not sought that legislation? That is something that we are considering, the best way to go about it and how to articulate the uses to which we would put that money. But it is an open question for us right now.

ALYESKA PIPELINE STATUS

Senator **Lautenberg**. I visited Valdez within days, a couple of days, after the tanker ran aground there, and many questions were raised about that pipeline, about the way the transport of oil is handled there.

We have heard lots of reports that the Alyeska pipeline in Alaska is corroding at a rapid rate and that some very sensitive ecological lands surrounding the pipeline may be at risk. If you ever, in pursuit of your responsibilities, have a chance to visit that area and look at what it means to us as a nation, you would see that any damage there would be devastating.

What can you report to us about the adequacy of inspections and maintenance at Alyeska? What does your office tell you about the situation?

Mr. **Dungan**. Mr. Chairman, we are very much involved in that situation. As soon as the Valdez incident happened, we sent inspectors up to go over the Alyeska pipeline, much before the next anticipated inspection date in 1992, I believe.

Both George Tenley and I were in Alaska 2 weeks ago and we traveled the length of the pipeline and spent a week out there dealing with some of the State officials involved, as well as other Federal agencies, the Department of the Interior, Bureau of Land Management.

There are a number of initiatives we are taking in that area. One is that we are going to be assigning a full-time inspector to Alaska. He will probably reside in Anchorage. We plan on developing a joint office with the Bureau of Land Management as well as the State pipeline agency, so that we can try to take advantage of the synergy of having the three agencies all at one spot and sharing information on what exactly is happening on the pipeline.

Based upon our visit up there, it seems that Alyeska has the situation under control. We did see the corrosion, which was all external, and they are taking action to replace that next year, and they are coating it with a second sleeve right now.

We are comfortable that that pipeline is probably receiving the best maintenance of any pipeline in the United States.

Senator **Lautenberg**. Some of that pipeline is buried, though, is it not?

Mr. **Dungan**. It is about 50 percent buried and 50 percent above ground.

One other thing that I wanted to mention. While we were there we met with the Yukon Pacific Corp., which is the company that would like to build a gas pipeline parallel to the oil pipeline, take it down to Valdez and then liquefy it, put it on tankers, LNG tankers, which would go to Japan and Korea.

We also have been involved with the inspector for the other natural gas project up there in Alaska, which would hook into the Canadian pipeline and bring gas down to the United States.

So ever since the Valdez catastrophe, we have taken a very active role in terms of inspections, working with other agencies, and essentially looking at the other potential pipelines that may be constructed.

Senator LAUTENBERG. Caution has got to be the byword there before there are any new pipelines or liquification. That area deserves preservation, if there is any way to do it and make available the resource there.

HAZMAT FIELD OFFICES

I want to talk for a moment about HAZMAT. Back in fiscal year 1988, the appropriations bills of the House and the Senate committees requested a report establishing your hazardous materials enforcement offices on a regional basis, as we do with the pipeline office. It is now April 1990 and we still have not seen the report.

Suggesting it is overdue is a gross understatement. What is the status of the report here? Has it left RSPA's office? Is it still sitting at DOT? Or is it laying at rest at OMB?

Mr. DUNGAN. We have submitted the draft report to the budget office at DOT, as well as to OMB. We then took their criticisms, responses, suggestions, and are building in a different methodology.

We are all trying to work toward a program by which we come up with a cost-effective way of handling the field offices. This has been a personal priority for me because I feel the travel expenses that we must pay when we send someone to the west coast, plus the loss of productive work time, is a real problem.

Senator LAUTENBERG. So what might we expect in terms of arriving at a conclusion? What is the process at this point?

Mr. DUNGAN. The process is that the report is essentially complete. Changes have been made. It is ready to leave my office to go to the Office of the Secretary, and from there to OMB. I would hope it would be over at OMB within a month.

Senator LAUTENBERG. I would hope so, because it is very obvious that, if the hazardous materials field offices were regional, it would increase the number of inspection days. That is a fair conclusion, right?

Mr. DUNGAN. Yes, sir.

Senator LAUTENBERG. What other benefits or efficiencies might be realized as well as that if three of the four regional offices were set up for the Hazardous Materials Transportation Office?

Mr. DUNGAN. Well, I think that not only would it increase our productivity in terms of work time, but I would say that——

Senator LAUTENBERG. Is there any synergy between the operations with pipeline?

Mr. DUNGAN. HAZMAT and pipeline?

Senator LAUTENBERG. Yes.

Mr. DUNGAN. It is possible.

Senator LAUTENBERG. I mean, I would assume there is some.

Mr. **Dungan**. It is possible. We have not been looking at the pipeline structure as the one we would use for HAZMAT, simply because the area of dense pipeline, area that is densely populated by pipelines, may not be the same as the heavy traffic areas for hazardous materials.

Senator **Lautenberg**. It would seem likely that it would be. However, it is possible that they would not be.

Would they not be in a much better position, however, to assist State and local governments with enforcement, training, decisionmaking, risk assessments, all that kind of thing?

Mr. **Dungan**. Yes.

Senator **Lautenberg**. Can you make a case for leaving the Hazardous Materials Office where it is?

Mr. **Dungan**. Actually, you can make the case either way. On the one hand, they are right here in our offices. It makes it very easy to communicate. On the other hand, the cost of living here in Washington makes it difficult to hire.

LOCATION OF HAZMAT OFFICES

Senator **Lautenberg**. But I also think there obviously are more expensive parts of the country, hard as it is to imagine, than Washington, DC. But the fact is that, with communications, it is easy to be in touch, to hear about things, whereas if they are in the field then they are doing their job. They may like to communicate with the boss, but you do not have to see him to do it.

What criteria would you bring to the location of these regional offices based on the comments?

Mr. **Dungan**. We would be looking at the heavy traffic in hazardous materials, and we have discussed certain offices in Chicago or Houston for the central region, possibly Los Angeles for the western region, and the New York and New Jersey area for the eastern region.

Senator **Lautenberg**. Would you consider the volume of materials being transported?

Mr. **Dungan**. Oh, yes.

Senator **Lautenberg**. Is frequency of enforcement problems one of the factors you would use?

Mr. **Dungan**. Right.

Senator **Lautenberg**. You suggested one in the New York-New Jersey area might be a possibility. We would like to examine that closely, obviously.

HAZMAT INSPECTION NONCOMPLIANCE

You reported last year a level of noncompliance found by your inspectors was between 40 and 60 percent. What is RSPA doing to bring that percentage down?

Mr. **Dungan**. If I could, I would like to turn that to Al Roberts, who is the Director of that Office.

Senator **Lautenberg**. OK.

Mr. **Roberts**. Senator, as I pointed out last year, we engage in what I call targeted inspection. In other words, we do not just randomly select the entities to be inspected. If the complaints we receive and the information we receive through our incident reporting data base do have value, we would expect that we would find on a percentage basis a high level of noncompliance on targeted inspections.

Statistically, I would suggest that the number of violations by the shippers is much lower than that. But we have no way to validate that unless we visit all the shippers and collect that kind of data, so there is no showing of a reduction.

Senator LAUTENBERG. There is enough of a level suspected of noncompliance that it would alert you that something has to be done about it, is that a fair statement?

Mr. ROBERTS. Yes, sir.

Senator LAUTENBERG. What are you going to do to bring that level down?

Mr. ROBERTS. Well, we are constantly improving our enforcement program. I think that the penalty levels have been substantially increased in recent years. The timeliness of our enforcement program is improving. We have more than doubled the enforcement staff in just the last few years, and we are seeking two more positions this coming year.

HAZMAT SHIPPER REGISTRATION PROGRAM

Senator LAUTENBERG. GAO recommended in 1980, again in November 1989, that RSPA establish a hazardous materials shipper registration program to determine the size of the universe. What action has your agency taken to establish a hazardous materials shipper registration program?

Mr. DUNGAN. As far as registration, because the scope is so broad—you have everybody from dry cleaners to large corporations involved in the hazardous materials area—the approach that we have taken is a proposal for a safety permitting program, and that would not just be registration, but that would be an actual program by which companies would have to prove themselves capable of shipping ultrahazardous materials, those being either explosives or radioactive material or materials that are toxic by inhalation.

We have not been able to justify the cost, the administrative cost of a very large program that would include every single entity, including very small businesses, that handle hazardous materials. We have not been able to come up with a cost-benefit analysis that makes sense.

So we have tried to focus on those things that are the most hazardous. That has been our approach.

Senator LAUTENBERG. I assume that you have watched with a degree of interest the debate on the clean air bill, where a large part of the discussion was focused upon the issue of costs versus health or versus risk to our people. And when you are talking about hazardous materials shipments, the very name "hazardous materials" suggests that something ought to be done, at least some level of volume ought to be considered so that we know that we are onto the job, rather than simply dismiss it as not cost effective.

There ought to be some yardstick by which you measure your decision. I would hope that we will have your office doing some thought about that.

Mr. DUNGAN. I think Al may like to speak to that.

Senator LAUTENBERG. OK.

Mr. ROBERTS. Senator, the characterization of our refusal to engage in registration I do not think is quite accurate. We in the Department of Transportation——

Senator LAUTENBERG. Well, the lack of results suggests something.

Mr. ROBERTS. If I may explain, sir. We in the Department of Transportation, in connection with EPA and in our relationship with EPA through their hazardous waste program under RCRA, which involves the Department of Transportation, we have records of 319,059 entities of one form or another engaged in some hazardous materials type of activity, whether it be manufacturing, transportation, areas where we through the regulatory process gain information on who these entities are.

But we do not have a registration program per se where 250,000 farmers who are engaged in commerce, transporting chemicals to their farms, and gas stations and dry cleaners and doctors engaged in radiopharmaceutical-type medicine, nuclear medicine, would have to by a specific regulation acknowledge to us who they are.

We do have a tremendous volume of information about entities engaged in the hazardous materials business, sir.

Senator LAUTENBERG. I do not want to debate this with you. We are not suggesting that someone who has a can of cleaning fluid, taking it to his dry cleaning store, be included. But if he had a small can of material that was extremely hazardous, that once emitted into the air or into the water supply could be destructive of human health, I say I do not care what the number is. At some point you have to make a decision about what the risk is to the community and the toxicity of the material.

I mean, that is your mission. If you cannot do the job, then say, well, we cannot do it; maybe there ought to be another department to do it.

Mr. DUNGAN. Well, no. We actually have tried to make that cut, and we made the cut in dealing with materials that are either explosive, radioactive, or toxic by inhalation. So we have actually looked at the different materials and said, these are the ones that are really seriously harmful if released, and that is what we are trying to not only register, but to actually safety permit and require the firms that handle them to prove that they are capable of handling these materials.

Mr. ROBERTS. If I may add, sir, we have registrations for 388 shippers of hazardous materials which are extremely toxic by inhalation.

SUBMITTED QUESTIONS

Senator LAUTENBERG. We are going to submit the remainder of our questions to you and ask for a thorough and prompt response, Mr. Dungan.

We thank you for being here. We are going to permit you to leave now, and before the next panel—let them come to the table—I am going to take a 5-minute recess.

Mr. DUNGAN. Thank you very much, Mr. Chairman.

[A brief recess was taken.]

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

OFFICE OF PIPELINE SAFETY (OPS)

SENATOR LAUTENBERG. Please supply for the record the status of all of the regulatory requirements mandated by the Pipeline Safety Reauthorization Act of 1988.

ANSWER: The status of the regulations is:

		Expected Issuance
(1)	Maps & records; pipeline inventory	NPRM 6/90
(2)	Carbon dioxide pipeline	Final Rule 5/90
(3)	Increase civil penalties	Completed 8/7/89
(4)	Penalties for destruction of markers	Completed 8/7/89
(5)	New facilities to accommodate pigging	NPRM 8/90
(6)	Regulations for one-call systems	NPRM 6/90

The status of the studies is:

(1)	Internal inspection devices	Report 6/90
(2)	Flow restricting devices	Report 6/90
(3)	Regulating excavators	Report 6/90
(4)	Improved inspection of master meters	Report 5/91

SENATOR LAUTENBERG: What steps has OPS taken to promote a more cooperative relationship between the federal and state pipeline authorities?

ANSWER: To promote a good Federal/State relationship, OPS actively works with the National Association of Regulatory Utility Commissioners (NARUC) and the National Association of Pipeline Safety Representatives (NAPSR). OPS participates in NARUC's twice a year meetings and NAPSR's one national and five regional meetings every year. Both NARUC and NAPSR make resolutions intended to improve OPS's program.

SENATOR LAUTENBERG: What more could be done in your view to assist the state pipeline safety inspectors, and what would be the cost of these efforts?

ANSWER: The development and implementation of an inspector qualification program would provide assistance for state pipeline safety inspectors. TSI is in the process of expanding its staff and developing the training capability to be able to provide the additional training required by an inspector qualification program. At this time, we cannot provide an accurate estimate of the ultimate cost of such a program.

SENATOR LAUTENBERG: I understand that you are asking for a funding increase for the Transportation Safety Institute. What is the purpose of this funding increase?

ANSWER: The $83,000 additional funding will support the initial development of training material for an inspector qualification program and development of new training material mandated by regulatory changes.

SENATOR LAUTENBERG: Do we charge the states for the pipeline safety instruction that we give to their inspectors through the Transportation Safety Institute?

ANSWER: No. Section 14(a) of the Natural Gas Pipeline Safety Act (NGPSA) was amended in 1984 to exempt state and local government officials from being charged tuition at TSI.

SENATOR LAUTENBERG: If we assessed a fee on the states for this purpose, do you think that it would diminish the effort in this area?

ANSWER: Yes. This training is now required for state inspectors but eventually will be mandated under regulations establishing inspector qualifications as provided under Sections 104 and 204 of the Pipeline Safety Reauthorization Act of 1988 (P.L. 100-561).

LEAK DETECTION SYSTEMS

In the case of the Arthur Kill spill, it is my understanding that a leak detection system was available, but was turned off. Basically, the detection system triggered so many alarms that the operator opted to disengage it.

SENATOR LAUTENBERG: Do all pipelines, be them above or below 20 percent minimum strength, have leak detection systems?

ANSWER: Although the hazardous liquid pipeline safety regulations do not use the term "leak detection system," the regulations do require that an operator have a communication system that monitors operation data to detect abnormal operating conditions by monitoring pressure, temperature, flow, or other operational data and transmitting this data to an attended location. As a practical matter, most operators fulfill this requirement with a leak detection system.

SENATOR LAUTENBERG: What has been your involvement in regulating in this area?

ANSWER: A Technical Division Interoffice Report, dated June 20, 1989, evaluated the performance and effectiveness of leak detection systems with fast response and/or shutdown capability for use on hazardous liquid pipelines. One of the conclusions in the report was that leak detection systems using a Supervisory Control and Data Acquisition (SCADA) system appear to be the most promising technology to detect a leak. SCADA systems utilizing state-of-the-art leak detection subsystems are a relatively new technology that allows an operator to continually monitor critical aspects of pipeline operation (e.g., flow rate, pressure).

The report on Emergency Flow Restricting Devices, required by the Pipeline Safety Reauthorization Act of 1988, will further discuss the importance of having a SCADA system with a leak detection subsystem installed in order to effectively use remotely controlled valves.

NATURAL GAS INDUSTRY

It has been observed by some that the natural gas industry is going to be making a comeback in the 1990's, perhaps as a result of deregulation, perhaps as a result of changes in the price of heating oil or electricity. That will obviously boost the amount of and use of natural gas pipeline.

SENATOR LAUTENBERG: Is your office adequately situated to handle that kind of increased workload?

ANSWER: Our new inspection plan recognizes the need to perform more inspections of new pipeline construction. In addition, our Fiscal Year 1991 budget requests six additional pipeline safety inspectors to help meet this need.

TRENDS IN PIPELINE ACCIDENTS

SENATOR LAUTENBERG: What has been the record on pipeline accidents over the last ten years? Is it trending up? Trending down?

ANSWER: The number of accidents on liquid and natural gas lines has been decreasing. The following charts summarized the gas and liquid accidents reported from 1980-1989. (See attached charts.)

The pipeline office has been criticized in the past for not directing its inspection efforts to areas of high risk.

SENATOR LAUTENBERG: Will your new pipeline inspection priority program direct your efforts to high-risk pipelines?

ANSWER: The program will be utilized as a management tool to identify high-risk pipelines.

PIPELINE INSPECTION PRIORITIES PROGRAM (PIPP)

In your testimony last year, you told us that the second phase of the PIPP program will aid in prioritizing inspection efforts, based on enforcement history. You also said that you were currently developing the enforcement database for federal use and you intend to initiate the state portion in fiscal year 1990.

SENATOR LAUTENBERG: Have we implemented the second and final phase of the PIPP program and initiated the data gathering for the state enforcement efforts?

ANSWER: Before we make the computer program available to the states, the federal program must be completed. We expect the federal program to be completed by December 1990.

Your Pipeline Inspection Priorities Program was originally scheduled to be implemented in 1987. The purpose of the program is to analyze data available from accidents and enforcement reports to help identify what pipeline operators need to be inspected on a more frequent basis. Last year, you told us that your date for implementation slipped from 1987 to 1990.

SENATOR LAUTENBERG: What has been your progress in this area? Are all phases of the Pipeline Inspection Priorities Program going to be implemented this year? Will state inspection offices be able to utilize this data bank, as well as your own enforcement regional offices?

ANSWER: We understand the Committee's continuing interest in PIPP and expect it to be fully operational by December 1990. The following is a schedule of tasks and their completion date:

SUMMARY OF GAS PIPELINE ACCIDENTS AND CASUALTIES
REPORTED FROM 1980-1989 AS REQUIRED BY 49 CFR PART 191

DISTRIBUTION

Report Year	Failures	Fatalities	Injuries
1980	1,467	9	269
1981	1,128	10	73
1982	1,191	20	225
1983	1,127	10	220
1984	747	26	189
1985	204	20	94
1986	136	19	86
1987	161	9	88
1988	170	15	76
1989	159	14	59

Transmission and Gathering

Report Year	Failures	Fatalities	Injuries
1980	529	2	41
1981	495	6	6
1982	520	11	41
1983	453	2	25
1984	255	9	40
1985	127	6	12
1986	83	4	20
1987	68	0	13
1988	88	3	11
1989	98	22	19

Note: Amendment 191-5, 49 FR 18961, May 3, 1984, Changed the definition of "incident" as follows: eliminated the requirement to report when taking any segment of a transmission pipeline out of service, eliminated the requirement to report if gas ignited, and increased the level of estimated property damage from $5,000 to $50,000.

SUMMARY OF LIQUID PIPELINE ACCIDENTS AND CASUALTIES REPORTED FROM 1980-1989

Report Year	Failures	Fatalities	Injuries
1980	219	3	12
1981	239	5	32
1982	200	1	6
1983	161	6	9
1984	203	0	19
1985	183	5	18
1986	203	3	32
1987	237	3	20
1988	196	2	19
1989	161	3	38

Schedule of Tasks

Task	Completion Date
- Personnel dedicated to PIPP development	Completed
- Software development	6/30/90
- Training of field staff	8/30/90
- Publish field guidelines	8/30/90
- Entering inspection results into PIPP data base	9/30/90
- Using PIPP as a risk assessment tool	In use with continuing refinements being made

- Use of PIPP to set inspection priorities	Begin: 10/1/90 Fully Implement: 12/90

The data bank is being utilized in the regional offices as a management tool. When it is fully operational, the computer program will also be available to the states.

ONE-CALL SYSTEMS TO MINIMIZE PIPELINE DAMAGE

Last year's appropriations bill earmarked roughly $750,000 for the states to develop modal one-call notification systems. This was intended to minimize the number of incidents in which excavation crews damage pipelines. The funds were to establish a system in each state for construction crews to call a central information system as to the location of all pipelines.

SENATOR LAUTENBERG: How much of this $750,000 do you expect to be utilized this year? How much do you expect to lapse?

ANSWER: The $750,000 (reduced to $672,000 by sequestration and the emergency drug abuse prevention program) was earmarked to encourage states to develop and implement one-call notification systems. The short time period between issuance of the final one-call notification program requirements (June 1990) and the end of the fiscal year (September 30, 1990) provides such a short time for states to prepare and submit applications and for OPS to evaluate and allocate these grant funds; that only a small number of states, if any, are likely to be processed. Because of this uncertainty, we have initiated a reprogramming effort to use most of the funds in other areas to further pipeline safety.

SENATOR LAUTENBERG: Will we succeed in getting these systems developed in all states, even with the lapse in funds?

ANSWER: The changes required by the 1988 Pipeline Safety Reauthorization Act will in most states require some type of legislative approval. Our goal is and will be to work with the state agencies as they address the various points in the model one-call notification system. We believe that there will be adequate funding to encourage this result thorugh use of Section 301 grants and annual carryover of prior year deobligations.

DRUG TESTING OF PIPELINE WORKERS

SENATOR LAUTENBERG: What is the status of your regulations requiring drug testing for certain pipeline industry employees? Have there been any court challenges to any efforts on your part in this area to date?

ANSWER: The regulations requiring drug testing for certain pipeline industry employees are effective on April 20, 1990, for operators with more than 50 employees subject to drug testing and August 21, 1990, for operators with 50 or less employees subject to drug testing.

The following petitions for review of the final rule are before the United States Court of Appeals for the Ninth Circuit - IBEW, Local 1245, et al. v. Skinner, No. 89-70061 and Oil, Chemical, and Atomic Workers v. Skinner, No. 89-70248.

BLANKET EXEMPTIONS -- TRUSTING INDUSTRY

As you know, the pipeline under the Arthur Kill that gave rise to the Bayway spill was an interstate pipeline. Thus, RSPA alone was responsible for regulating it. Yet, your agency was not regulating it since it was subject to a blanket exemption granted to all pipelines operating at less than 20 percent of its maximum strength.

SENATOR LAUTENBERG: Is there any standard procedure for determining that a pipeline continues to qualify for the exemption?

ANSWER: No. This provision, as well as nearly all of the pipeline safety regulations, rely on the voluntary compliance of the operator.

SENATOR LAUTENBERG: If a pipeline falls under this blanket exemption, is it also exempt from other OPS regulations (e.g., upcoming 3rd party damage; training requirements)?

ANSWER: Yes. However, we can exercise jurisdiction under the provisions of Section 209(b)(1) of the Hazardous Liquid Pipeline Safety Act of 1979, where we find a pipeline facility to be hazardous to life or property. This is the course of action being taken in the Exxon Arthur Kill spill.

ECOLOGICALLY SENSITIVE AREAS/BUCKEYE SPILL

I understand that RSPA has determined, after the fact, that the Arthur Kill pipeline is in a sensitive ecological area and has revoked its exemption from regulation. The Buckeye pipeline which recently ruptured, WAS subject to regulation and was also in an ecologically sensitive area. It endangered the water supply for many communities, including Pittsburgh.

SENATOR LAUTENBERG: Are you revoking the exemption for all low pressure pipelines in ecologically sensitive areas, or just for the Exxon Arthur Kill pipeline?

ANSWER: This summer we will be initiating a rulemaking to determine whether to terminate this regulatory exception, in whole or in part, including ecologically sensitive areas, and thereby require existing pipelines operating at low stress levels to be operated and maintained in accordance with federal regulations.

With respect to Exxon's Arthur Kill pipeline, in the absence of regulation, current statutory authority allows us to investigate accidents and to order correction of hazardous conditions. RSPA has issued a Notice of Proposed Hazardous Facility Order designed to require Exxon to take corrective actions prior to returning the pipelines to service.

NON-COMPLIANCE BY PIPELINE OPERATORS

RSPA has previously testified to the subcommittee that the rate of non-compliance found by your inspectors for hazardous materials is roughly 40 to 60 percent.

SENATOR LAUTENBERG: What level of non-compliance do you find with pipeline operators?

ANSWER: Approximately 30 percent of our inspections result in OPS initiating some type of enforcement action.

SENATOR LAUTENBERG: How much money in fines was collected last year? How does that compare to the year before?

ANSWER:

Civil Penalty Collection	1988	1989
Gas		
Penalties preliminarily assessed	38	31
Amount	$259,000	$159,400
Penalties collected	17	19
Amount	$ 70,450	$ 41,500
Liquid		
Penalties preliminarily assessed	16	14
Amount	$516,650	$353,550
Penalties collected	4	14
Amount	$ 9,500	$ 60,800

ADEQUACY OF INSPECTION FORCE

SENATOR LAUTENBERG: How many inspectors do you currently employ for the entire federal enforcement effort?

ANSWER: RSPA has a staffing level of 15 pipeline inspectors and 5 region chiefs for the pipeline safety program. We currently have 13 inspectors on staff.

SENATOR LAUTENBERG: What do these inspections consist of?

ANSWER: A typical standard operator inspection would include a review of pipeline records, operating and maintenance procedures, to ensure that the pipeline is being operated and maintained according to the pipeline safety code. A field check is also performed to verify a sample of these records. The field check includes, but is not limited to, taking pipe-to-soil readings to verify cathodic protection, checking pressure set points on relief devices, and inspecting for atmospheric corrosion on above ground piping. In addition, any new construction or field operations being done in the area would be inspected for compliance.

SENATOR LAUTENBERG: Obviously, with that many inspectors and so much pipeline, these inspectors are not checking all the pipelines themselves. Whose data are they reviewing, and who accumulates that data?

ANSWER: Operators are required to maintain critical design, construction, operating, and maintenance records. These records are reviewed during our standard inspection. In addition, certain records are "spot checked" in the field to determine the accuracy of data. Operators are also required to file accident, safety related condition, and annual reports with OPS.

SENATOR LAUTENBERG: Do we effectively take the pipeline operators at their word on the data they are providing? How often is the data double-checked by the inspectors?

ANSWER: OPS does rely on the operators for the accuracy of their design, construction, operation, and maintenance records. However, the accuracy of the records is "spot checked." If the data is inaccurate or false, OPS would initiate enforcement action. OPS has not found this to be a common problem.

SENATOR LAUTENBERG: How does your inspection force of 15 inspectors compare to that of the states? Does any individual state have more inspectors than the entire Pipeline Safety Office in RSPA?

ANSWER: There are approximately 250 state inspectors in the gas and hazardous liquid pipeline safety program. Three states have more pipeline inspectors than RSPA--New York (23); Texas (24); and California (19).

SENATOR LAUTENBERG: How many inspectors do you have assigned to the New York/New Jersey area?

ANSWER: The Eastern Region of the Office of Pipeline Safety (which has responsibility for New York/New Jersey area) has two inspectors (there is currently a vacancy) and one Region Chief. The Eastern Region has a total of 15 state agencies participating in the pipeline safety program.

You are prepared to bring all of the low-stress pipeline under your regulation but you do not know how many miles of pipeline that entails.

SENATOR LAUTENBERG: Since you do not know how many additional miles of pipeline you are taking on here, how are you able to determine what level of resources you will need for your inspection efforts?

ANSWER: We should be able to provide an initial estimate later this year on the total miles of pipeline after we receive comments on our proposed rulemaking which will seek data on 20 percent or less of SMYS lines. However, it is reasonable to assume that the majority of such lines are in gathering operations. Such operations in rural areas are excluded from the jurisdiction of the Hazardous Liquid Pipeline Safety Act.

FREQUENCY OF INSPECTIONS

SENATOR LAUTENBERG: What is the status of the report that we requested in last year's appropriation bill regarding your success in reaching the goal of inspecting all pipeline within the 2.5 year period? This report was due to us back in February. It is now April. When can we expect to receive this report?

ANSWER: The report is in final coordination in the Department, and will be submitted to the Committee as soon as it is issued.

LOCATION OF NATION'S PIPELINES IS NOT KNOWN

In last year's testimony, you stated that you intended to implement a regulation that would require a comprehensive mapping effort by all pipeline operators, so we could identify the location of all pipelines for the first time. This regulation was mandated as part of the amendments to the Hazardous Materials Transportation Act back in 1987.

SENATOR LAUTENBERG: What is the status of this regulation?

ANSWER: The Pipeline Safety Reauthorization Act of 1988 requires that all pipeline operators have accurate maps of major pipeline facilities. This proposed rulemaking, which also incorporates the Reauthorization Act requirements for operators to maintain an inventory of the types of pipe in their system, is undergoing final coordination in the Department.

MASTER METER SYSTEMS

RSPA does not require its inspectors to inspect master meter systems, which are pipeline systems distributing gas to definable areas such as mobile home parks, housing projects, or apartment complexes. These areas are only inspected when a complaint has been lodged.

SENATOR LAUTENBERG: Given the potential for injury of a large number of people from a gas leak in a housing complex, what is your rationale for not inspecting these systems?

ANSWER: As you know, RSPA inspects master meter systems when we become aware of a pipeline safety problem. Likewise, RSPA strongly encourages the states to take on responsibility for these intrastate systems. To date, 18 states have not taken on full pipeline safety jurisdiction over master meters.

The estimated number of master meter systems (based on a 1979 study) that remain under federal jurisdiction range from approximately 16,800 to over 38,000 systems. As mandated by the Pipeline Safety Reauthorization Act of 1988, RSPA is preparing a report on the "Need for an Improved Inspection Program for Master Meter Systems." Although the report is not finalized, preliminary figures indicate a sharp drop in the number of master meter systems since the 1979 study. However, if the number of master meters identified in the 1979 study were reduced by 50 percent, i.e., 8,400 under federal jurisdiction, RSPA would need 125 additional federal inspectors to inspect such systems every 3 years. In addition, the reported accident rate remains low for master meter systems.

Consequently, based on the risk assessment, RSPA is not proposing to change its master meter inspection policy. This policy will be re-evaluated after the above report is finalized.

STATE GRANTS FOR PIPELINE ENFORCEMENT

As I understand the grants-in-aid program to the states, those states that take responsibility for regulating and enforcing intra-state pipelines within their state according to the federal regulations are eligible for federal grant funds. Those states that choose not to adopt the federal regulations are not eligible for grants, and the intrastate pipelines in those states are regulated by your office directly.

SENATOR LAUTENBERG: How many states currently participate in the grant program?

ANSWER: See attached chart.

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STATES PARTICIPATING IN THE FEDERAL/STATE COOPERATIVE GAS AND HAZARDOUS LIQUID PIPELINE SAFETY PROGRAMS

Natural Gas Program

States under 5(a) Certification (48)

Alabama
Arizona
Arkansas
California
Colorado
Connecticut
District of Columbia
Florida PSC
Florida (State Treasurer-
  LP Gas Div.)
Georgia
Hawaii
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma

Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Tennessee
Texas
Utah
Vermont
Virginia
West Virginia
Wisconsin
Wyoming

States under 5(b) Agreements (2)

Delaware
Wyoming (Intrastate Trans.)

States Acting as Interstate Agents (11)

Arizona
Connecticut
Iowa
Kentucky
Michigan
Nevada
Ohio
Rhode Island
Utah
West Virginia
Wyoming

Hazardous Liquid Program

States Under 205(a) Certification (9)

Alabama
Arizona
California (Fire Marshall)
Iowa
Louisiana
Minnesota
Oklahoma
Texas
West Virginia

States Under 205(b) Agreement (1)

Mississippi

States Acting as Interstate Agents (2)

Arizona
California (Fire Marshal)

PAY SHORTFALL FOR PIPELINE OFFICE

SENATOR LAUTENBERG: I understand there is a shortfall in your personnel pay account (PC&B account) for FY 1990 and 1991. What will be the effect of this shortfall if it is not addressed?

ANSWER: The PC&B shortfall will cause hardship to employees in the Pipeline Safety office because once the payroll account exhausts its funds, employees will have to be laid off. We are taking steps to reprogram funds into that account to cover estimated salaries and benefits through the balance of the fiscal year.

SENATOR LAUTENBERG: What is the total amount of the shortfall in FY 1990 and in FY 1991?

ANSWER: We estimate a shortfall of $325 thousand dollars in FY 1990 and $150 thousand dollars in FY 1991.

SENATOR LAUTENBERG: I understand that states can receive no more than 50 percent of the cost of their state program. At the current funding level, what percentage of a state's regulatory program are we presently funding?

ANSWER: See attached chart.

SENATOR LAUTENBERG: Have any states ever withdrawn from the grants program and opted to let you, the federal office, take over their regulatory function? Why has this occurred?

ANSWER: To date four states have withdrawn from the pipeline safety grant program. South Dakota withdrew in 1976 for unknown reasons. Alaska withdrew in 1978 because the state legislature was unable to pass the necessary legislation. Idaho dropped out of the program in 1984 due to the retirement of their only pipeline inspector and their lack of interest in the program. And finally, the State of Washington withdrew from the program effective January 1, 1990, because of lack of state funds, the perceived inadequacy of federal funds and other priorities.

As I understand it, states that want to adopt regulations over and above the federal pipeline regulations are required to see to it that their regulations are compatible with the federal regulations.

SENATOR LAUTENBERG: How many states choose to regulate their pipeline in a fashion that may be seen to be tougher than the federal regulations?

ANSWER: Seventeen states, including New York, have adopted more stringent regulations for intrastate pipeline operators.

SENATOR LAUTENBERG: In your view, if the prohibition on states regulating interstate pipelines was repealed, would these pipelines be subject to tougher or weaker regulation by the states?

ANSWER: If the prohibition on states regulating interstate pipelines was repealed, state regulation of such lines would vary, with some states regulating more stringently than the Department and some less. The result would almost certainly lead to inconsistent regulation of the same line as it crossed state lines. This result is likely even if the states adopted regulations which were identical to the federal standards because of variances in, and lack of coordination, of the enforcement of those regulations. A pipeline company would be forced to operationally segment its lines based on the state borders rather than on transportation needs.

1989 NATURAL GAS PIPELINE SAFETY GRANT ALLOCATIONS

STATE	REQUEST	ALLOCATION	% OF FUNDING
AL	$237,153.50	$105,945.00	22
AZ	$341,406.50	$129,621.00	19
AR	$106,261.00	$85,870.00	40
CA	$385,900.00	$131,989.00	17
CO	$72,626.50	$69,666.00	48
CT	$207,500.00	$106,785.00	26
DE	$14,513.00	$14,342.00	49
FL	$69,800.00	$68,759.00	49
GA	$179,945.50	$102,540.00	28
HI	$22,075.50	$20,442.00	46
IL	$190,956.00	$101,718.00	27
IN	$97,190.00	$80,375.00	41
IA	$117,950.00	$88,147.00	37
KS	$180,774.00	$98,268.00	27
KY	$193,480.00	$100,588.00	26
LA	$564,999.50	$185,662.50	16
ME	$12,260.00	$11,827.00	48
MD	$47,288.00	$43,381.00	46
MA	$282,000.00	$111,115.00	20
MI	$140,650.00	$96,637.00	34
MN	$275,403.50	$111,219.00	20
MS	$101,471.50	$83,019.00	41
MO	$163,759.50	$98,371.00	30
MT	$27,427.50	$26,043.00	47
NE	$69,122.50	$63,966.00	46
NV	$65,109.00	$63,166.00	49
NH	$45,573.00	$42,435.00	47
NJ	$217,897.00	$103,059.00	24
NM	$117,000.00	$88,727.00	38
NY	$946,576.00	$281,643.00	15
NC	$115,262.00	$88,899.00	39
ND	$26,974.50	$25,953.00	48
OH	$328,946.00	$125,949.00	19
OK	$189,715.50	$106,987.00	28
OR	$67,700.00	$66,690.00	49
PA	$216,609.50	$99,366.00	23
RI	$57,905.50	$57,905.50	50
TN	$178,534.00	$104,085.00	29
TX	$693,088.50	$219,288.00	16
UT	$48,780.00	$46,765.00	48
VT	$43,504.50	$42,918.00	49
VA	$212,921.50	$97,525.00	23
WA	$49,550.00	$48,868.00	49
WV	$136,140.50	$93,375.00	34
WI	$115,065.00	$76,978.00	33
WY	$105,336.50	$82,153.00	39
DC	$37,777.50	$37,279.00	49
PR	$16,590.00	$15,191.00	46
TOTAL	$8,134,469.50	$4,151,500.00	26

NOTE: THE 'REQUEST' REPRESENTS 50% OF THE STATE'S ESTIMATED BUDGET. THE '% OF FUNDING' IS THE PERCENTAGE OF THE BUDGET REPRESENTED BY THE ALLOCATION.

1989 LIQUID PIPELINE SAFETY GRANT ALLOCATIONS

STATE	REQUEST	ALLOCATION	% OF FUNDING
AL	$14,333.00	$8,871.00	31
AZ	$55,184.50	$18,538.00	17
CA	$681,000.00	$76,983.00	6
IA	$14,710.00	$8,967.00	30
LA	$139,300.00	$30,630.00	11
MN	$32,708.00	$13,870.00	21
MS	$9,714.00	$7,722.00	40
OK	$36,609.50	$14,713.00	20
TX	$122,309.50	$28,245.00	12
WV	$19,140.50	$10,041.00	26
TOTAL	$1,125,009.00	$218,500.00	10

NOTE: THE 'REQUEST' REPRESENTS 50% OF THE STATE'S ESTIMATED BUDGET. THE '% OF FUNDING' IS THE PERCENTAGE OF THE BUDGET REPRESENTED BY THE ALLOCATION.

REGIONAL ENFORCEMENT OFFICES FOR HAZMAT

SENATOR LAUTENBERG: What criteria would you bring to the location of regional enforcement offices for Hazmat?

ANSWER: RSPA would look primarily at shipment origins, incident locations, and company locations in evaluating locations for field offices. In performing the evaluation, RSPA would utilize various databases within the Hazardous Materials Information System.

SENATOR LAUTENBERG: Unfortunately, one area that has a very high volume of hazardous materials and a history of enforcement problems has been New Jersey. Can you give me any reason why you should not locate a regional office in New Jersey?

ANSWER: Clearly all evidence points to the wisdom of establishing a field office in New Jersey. However, we would expect to initially give consideration to the establishment of field offices in locations which cannot be reached so readily by Washington-based inspectors so as to attain maximum productivity benefits from the field offices.

REAUTHORIZATION OF THE HAZMAT ACT/EFFECT ON RESOURCES

SENATOR LAUTENBERG: How long has it been since the Hazardous Materials Transportation Act was reauthorized?

ANSWER: The HMTA was last reauthorized in 1984 by enactment of P.L. 98-559. The authorization expired in 1986.

SENATOR LAUTENBERG: I am told that there has been more action toward a reauthorization bill this year than in previous years. Do you expect the Act to be reauthorized this year?

ANSWER: Much Congressional attention has been devoted to the reauthorization of the HMTA during this Session. The House Committees on Energy and Commerce and on Public Works and Transportation have both expended significant energies toward development of a reauthorization bill. Both committees have embraced most of the provisions contained in H.R. 3229, the Department's reauthorization proposal, but have gone on to address issues outside the scope of the Department's proposal. If the two House committees are able to reconcile their differences, the chances of enacting HMTA legislation during this Session would appear to be quite favorable.

SENATOR LAUTENBERG: What effect would a reauthorized Act have on your budget requirements?

ANSWER: Enactment of the Department's HMTA proposal would have no impact on RSPA's budget requirements. Other bills currently being considered, however, would have significant impacts. For example, H.R. 3520 would require RSPA to promulgate 14 complex rulemakings, perform 3 detailed technical studies and publish 2 extensive reference documents. To accomplish all of these tasks within one year of enactment without simply terminating all discretionary activities, RSPA would have to turn to support contractors for a level of effort estimated at $10 million. Since RSPA's FY 1991 budget request for the hazardous materials transportation program is slightly less than that amount, the overall budgetary impact of a bill like H.R. 3250 would be to double RSPA budgetary requirements.

SENATOR LAUTENBERG: Do you anticipate a number of mandatory rulemakings resulting from this legislation?

ANSWER: Yes. Many of the bills being considered during this Session feature would require the Department to adopt specific regulatory requirements within very short timeframes. The unfortunate aspect of such mandates is that they necessarily restrict the public's opportunity to participate in the rulemaking process. They also have the effect of resetting the Department's rulemaking priorities without regard to the relative safety benefits of those ongoing efforts that will be displaced.

HAZMAT CONTAINERS

SENATOR LAUTENBERG: I understand that RSPA continues to work on a regulation geared towards substituting performance standards for the design standards currently used for hazardous materials containers. The goal is to make our standards comparable to the international standards in this area. How long has RSPA been researching and working on this regulation?

ANSWER: The concept of adopting performance-oriented standards as a replacement for design-oriented standards was advocated by DOT as early as 1968. However, the effort began in earnest with publication of an advance notice of proposed rulemaking in April 1982, which proposed adopting performance standards for small packagings based on United Nations recommendations.

SENATOR LAUTENBERG: I understand there is a great deal of time sensitivity to this regulation since the establishment of a unified European community in 1992 holds the potential of isolating the U.S. unless we are brought more closely in line with the international standards. When do you expect to publish a proposed rule and final rule in this area?

ANSWER: The rulemaking project (Docket HM-181) to adopt performance-oriented standards, and corresponding hazard classification and communication standards, based on United Nations recommendations, is the most comprehensive revision of the Hazardous Material Regulations ever undertaken. An advance notice was issued in April 1982. Notices addressing major proposals were issued in May and November 1987. Supplemental notices addressed to the classification of gases were issued in November 1988 and July 1989. Five additional supplemental notices related to this project are scheduled for publication this Spring. Over 2000 public comments have been received to date. Following the close of the comment periods on the supplemental notices, and barring other unanticipated Congressionally-mandated rulemaking activities, RSPA anticipates publication of a final rule either at the end of this year or early in 1991.

HAZARDOUS MATERIALS INFORMATION SYSTEM

SENATOR LAUTENBERG: Has RSPA established a mechanism to compare the information in the Hazardous Materials Information System to other databases to ensure the accuracy and completeness of RSPA's database? If so, with which other databases have comparisons been made, and what has been the result?

ANSWER: RSPA established a mechanism in 1987 to compare the reports of hazardous materials incidents reported telephonically to the National Response Center to the reports submitted on DOT Form 5800.1. Over the last three years, this effort has resulted in the issuance of 74 enforcement actions.

For rail incidents reported either to RSPA or the Federal Railroad Administration (FRA), each report is now systematically correlated by both RSPA and the FRA to their respective set of reports. When an FRA report does not correspond to an RSPA report, it is transmitted to the OHMT's Enforcement Division for action. The FRA pursues a similar course of action. Since this procedure began, 34 reports have been referred to the OHMT Enforcement Division. Of these 34 reports, 18 have been resolved, with only three being required to be reported to RSPA.

The Federal Highway Administration has supplied the RSPA with tapes of reports of highway incidents for 1987 and 1988. The computer tapes are being used to establish the feasibility of correlating and cross checking the FHWA and RSPA incident data for completeness and consistency.

RSPA has also initiated a study to be conducted by the Transportation Systems Center to compare the HMIS incident report data with incident data bases compiled by state agencies in California, Colorado, and New Jersey. The study will assess whether the Federal system could benefit from a regular comparison with State systems, and determine the scope and nature of these State reporting systems.

HOW MANY HAZARDOUS MATERIALS SHIPPERS ARE THERE?

SENATOR LAUTENBERG: GAO recommended in 1980 and again in November 1989 that RSPA establish a hazardous materials shipper registration program to determine the universe of organizations it is regulating. Are there any funds in your budget to establish such a system?

ANSWER: RSPA's hazardous materials transportation program budget includes funds to maintain the several transporter identification systems already in effect. The funds are not readily identifiable in RSPA's budget requests because, the identification systems are an intrinsic part of the overall safety program and not an end in themselves. Funds are requested to maintain the Hazardous Materials Information System (HMIS) which, inter alia, provides a system of identifying shippers and carriers of hazardous materials. Because shipper identification is merely one of several functions of the HMIS, it is not budgeted separately. It is funded as part of the overall HMIS.

SENATOR LAUTENBERG: Can RSPA obtain information on the universe of hazardous materials shippers from other sources? If it can, why has it not done so?

ANSWER: RSPA has access to a broad range of data sources that identify shippers, carriers and manufacturers of packagings for hazardous materials and wastes. These sources include: hazardous materials incident reports; applications for Departmental issuances such as exemptions, approvals or explosives registration numbers; lists of hazardous waste generators and transporters maintained by the Environmental Protection Agency; and lists of radioactive materials shippers and carriers licensed by the Nuclear Regulatory Commission. Those sources contain more than 290,000 records identifying regulated entities that are or have been engaged in the transportation of hazardous materials. These data sources are not mutually exclusive, so there is some degree of duplication, but together they capture all of the major and many of the minor shippers of hazardous materials in the United States.

RSPA retains its reservations about the value of universal shipper registration. Not all entities that ship hazardous materials do so on a full-time or continuing basis. Others do so, but operate at a level of the economy where business turnover rates are high. There are hundreds of thousands of infrequent, low volume and/or low-risk shippers of hazardous materials. The Department does not need a comprehensive listing of these shippers to be able to administer and enforce the Hazardous Materials Regulations effectively.

CAN THE HAZMAT PROSECUTORS KEEP UP WITH CASELOAD?

SENATOR LAUTENBERG: During the last few years, we have supported additional inspectors for your hazardous materials office. As a result, the number of inspectors has just about doubled in the last five years. You are requesting two additional inspectors for 1991. The cases that are referred by the inspectors are prosecuted by your Office of the Chief Counsel. Does your Chief Counsel's office have sufficient staff to process the number of cases resulting from the activities of your inspectors?

ANSWER: At the present time, the Chief Counsel's Office is providing excellent support for the hazardous materials enforcement program. For cases initiated in Fiscal Years 1988 and 1989, the Chief Counsel's office took 55 days to process a case for issuance. If more inspectors are added and legal staffing remains constant, this processing time may increase.

SENATOR LAUTENBERG: Are you content with the pace at which the Chief Counsel's office is prosecuting these cases?

ANSWER: In general, the Chief Counsel's Office prosecutes cases in a timely manner. The key time period for RSPA is the time between the inspection and the issuance of a Notice of Probable Violation which initiates a case, about seven months. Once a case is initiated, the time to completion depends on the timeliness of the response by the alleged violator, or respondent, and the due process procedure which the respondent elects. For example, if a respondent chooses a formal hearing before an administrative law judge, it may take up to two years for the case to be brought to conclusion.

SENATOR LAUTENBERG: On average, how long does it take to prosecute a case to completion?

ANSWER: From the date of an inspection leading to an enforcement case to the closing date of the case, RSPA has been averaging 14 months per case.

SENATOR LAUTENBERG: Are you dropping cases because you simply do not have the staffing to prosecute them fully?

ANSWER: RSPA has never dropped an enforcement case because of staffing shortages.

HAZMAT INSPECTIONS VERSUS VOLUME

SENATOR LAUTENBERG: The RSPA office is charged with enforcing its regulations for containers and intermodal transfer points. The modal agencies enforce the regulations for their own modes.

Last year, you testified that there had been a dramatic increase in the number of intermodal transfers, a boost of 36 percent, while the number of inspections increased 3 percent. What is the trend this year? Is the frequency and volume of intermodal transfers leveling off or does it continue to grow?

ANSWER: The figures provided last year were estimates for all shipments of hazardous materials, including intermodal shipments. RSPA does not have any updated information, but assumes that the trend is continuing upward.

SENATOR LAUTENBERG: How does this compare with your expected number of inspections?

ANSWER: RSPA's inspections of shippers, packaging manufacturers, and cylinder retesters increased significantly in 1989. RSPA conducted 141 shippers inspections, a 32% increase over 1888; 128 packaging manufacturer inspections, a 120% increase over 1988; and 107 retester inspections, a 60% increase over 1988. Shipment observation inspections fell slightly, from 328 to 300, an 8.5% decrease. We expect all categories to increase in 1990.

ADEQUACY OF HAZMAT ENFORCEMENT BY MODAL AGENCIES

SENATOR LAUTENBERG: Each of the modal agencies are charged with enforcing RSPA's hazmat regulations for their own mode. Does RSPA monitor the enforcement efforts of each of the modal agencies?

ANSWER: RSPA exercises the lead role in coordinating Department-wide hazardous materials enforcement efforts. RSPA established and chairs bimonthly coordination meetings with the four Administrations that enforce the hazardous materials safety regulations with respect to the highway, rail, air and water modes. In addition, RSPA's Chief Counsel chairs analogous coordination meetings with the hazardous materials enforcement attorneys of the four modal administrations. RSPA also collects and publishes reports of hazardous materials penalty actions taken by each of the five administrations, as well as the annual report to Congress on the Department's administration of the Hazardous Materials Transportation Act. In summary, RSPA's monitoring of the hazardous materials enforcement efforts of the modal administrations is based on a collegial approach to problem-solving through information-sharing and cooperative efforts.

SENATOR LAUTENBERG: What are your views regarding the adequacy of the enforcement efforts by each of the modal agencies?
ANSWER: Each of the modal agencies maintains a high degree of commitment to ensuring the safe transportation of hazardous materials in commerce. The adequacy of those efforts would seem to be demonstrated by the continued high level of safety achieved by the hazardous materials transportation industry. During 1989 the more than 180 million shipments of hazardous materials that moved in commerce in the United States accounted for eight deaths. Motor vehicle traffic accidents accounted for more than 45,000.

SENATOR LAUTENBERG: How good a job is the Coast Guard doing?
ANSWER: In 1989 the Coast Guard's civil penalty collections for violations of the hazardous materials regulations amounted to $490,196, a 310% increase over the 1988 amount of $119,687.

SENATOR LAUTENBERG: How about the FRA?
ANSWER: In 1989 the Federal Rail Administration completed fewer but larger civil penalty actions, ending the year with a average penalty collection of $9,793, an increase of 28%.

SENATOR LAUTENBERG: How about the FAA?
ANSWER: The Federal Aviation Administration did not achieve the same increases in penalty collections, but did slightly increase the penalty actions it initiated in 1989.

SENATOR LAUTENBERG: How about the Federal Highway Administration?
ANSWER: In 1989 the FHWA's civil penalty collections for violations of the hazardous materials regulations amounted to $368,900, a 258% increase over the 1988 amount of $103,000.

HIGHWAY ROUTING OF HAZARDOUS MATERIALS

SENATOR LAUTENBERG: My home state of New Jersey is more densely populated than any other state. Many of our residential communities are right adjacent to our major roadways. Quite a lot of hazardous materials travel on those roadways. What is the current status of your rulemaking on highway routing of hazardous materials?
ANSWER: RSPA is nearing completion of its evaluation of the many issues involved in this rulemaking, and within the next three months expects to publish a Notice of Proposed Rulemaking setting forth a uniform and comprehensive system of highway routing requirements.

SENATOR LAUTENBERG: How long have these regulations been in process?

ANSWER: Two years have passed since RSPA first began the formal rulemaking process. This is normal for a regulatory action of this complexity. RSPA also conducted two public hearings on highway routing issues: the first in June 1988 at Sacramento, California, and then in September 1988 at Washington, D.C. These meetings generated approximately 400 pages of transcript material. In addition, 82 written comments were received in response to the advance notice published in April 1988.

SENATOR LAUTENBERG: How do you anticipate these regulations will change the routing of hazardous materials around our highways?

ANSWER: At the very least, the regulations will ensure that routing decisions are made on a more uniform and systematic basis than is currently the case. The role of state and local governments in designating highway routes will also be clarified and significantly strengthened.

SENATOR LAUTENBERG: How will these regulations serve to enhance safety in residential communities?

ANSWER: RSPA has repeatedly stressed the important role that State and local governments have in identifying and designating safer routes as a way to reduce the risks associated with the transportation of hazardous materials. Their knowledge and expertise concerning local highway safety conditions, land use patterns, and emergency response capabilities can not be duplicated, either by the Federal government or by the transportation industry.

HAZARDOUS MATERIALS TRAINING

SENATOR LAUTENBERG: What is the demand by state officers for hazardous materials training at the Transportation Safety Institute?

ANSWER: The first type of training needed by state officers is an introduction to the Hazardous Materials Regulations. This can best be provided through well-developed programs delivered by TSI staff and state trainers. In 1989 TSI provided introductory training for 1236 state officers. Subsequently, state officers demand more specific technical courses on inspection procedures, package specifications, inspection techniques and other operational requirements. To expand the availability of the advanced courses, we are developing alternative delivery methods, such as "train-the-trainer."

SENATOR LAUTENBERG: What is the situation in terms of demand versus supply of available training slots for these courses?

ANSWER: TSI has experienced an increased demand in FY 1990. We are working with and providing "train-the-trainer" programs to state agencies, local technical education schools, police and fire academies, and expanding the TSI Associate Staff to meet this increased demand.

SENATOR LAUTENBERG: Is the institute able to meet the demand of the states for participation in the training programs for hazardous materials?

ANSWER: During previous years, we have met the needs of the states through TSI delivered programs. In FY 1990, to meet increasing demand, we are increasing the number of TSI Associate Staff from state agencies to deliver courses and expect to meet the demand for delivery of hazardous materials courses.

SENATOR LAUTENBERG: I understand a number of the states are very interested in the "train-the-trainer" program, since it enables specialists trained at the Safety Institute to come back to their states and train additional Hazmat officers. Are you able to meet all the states' demands for these "train-the-trainer" programs?

ANSWER: Yes. RSPA supports the "train-the-trainer" approach and uses state employees to augment TSI staff for course delivery. TSI encourages state participation and uses state trainers as "Associate Staff" to conduct classes whenever possible.

SENATOR LAUTENBERG: During the last 10 years, numerous Federally-funded training packages for emergency responders dealing with spills of hazardous materials have been funded. What is RSPA's assessment of the current usefulness of these courses?

ANSWER: In conjunction with other Federal agencies, we have evaluated the effectiveness of existing training programs and find the need to update some programs, totally revise others and fill gaps in existing curricula. RSPA believes there is a need to further review existing Federal and state programs to determine what is available for use in a standardized "core" curricula and what work should be undertaken to fill gaps in more specialized and technical response training.

SENATOR LAUTENBERG: Are these courses sufficiently current so that they can be handed off to state and local responders?

ANSWER: Some awareness and operational level first response courses may be ready for handoff, but the more difficult levels, specialist and technical training for response, are not ready for handoff. RSPA believes that some work recently developed under grants from the National Institute for Environmental Health Sciences may be a good basis for the specialist and technician level training.

SENATOR LAUTENBERG: Has RSPA, working with other Federal agencies, established core training programs to meet the needs of the different types of responders specified in the OSHA regulations? If not, why not?

ANSWER: The National Response Team Training Committee, of which RSPA is a participant, is developing a framework and procedures for review of training programs used to train the types of responders specified in the OSHA/EPA regulations for emergency response training.

A separate RSPA supported initiative, currently being coordinated with the National Response Team, would standardize curricula and help states prepare for response by estimating risks from hazardous materials incidents and revising plans accordingly.

SENATOR LAUTENBERG: Does your FY 1991 budget request contain funds for the development of such core programs?

ANSWER: Yes, RSPA's FY 1991 budget request includes limited funding to start curricula development for "core" emergency preparedness training programs. This work will be undertaken on a cooperative basis with FEMA, EPA, DOL, DOE and other Federal agencies.

HAZMAT ENFORCEMENT

SENATOR LAUTENBERG: A FHWA report entitled "Present Practices of Highway Transportation of Hazardous Materials" concluded the following:

> Enforcement officers report four problems commonly encountered in prosecuting hazardous materials violators. First, because of a lack of training or experience, officers often do not provide adequate documentation in the inspection report or have not followed correct procedures. As a result, many cases must be set aside or the charges reduced. Second, enforcement officers find that many judges and local prosecutors have difficulty understanding hazardous materials regulations and respond by dismissing cases or lowering penalties without cause. A third problem is the difficulty of obtaining assistance from other agencies in preparing evidence for court proceedings. State agencies are sometimes unwilling to cooperate in testing hazardous materials or in providing other technical assistance. Fourth, state enforcement agencies complain that fines are too low to serve as a deterrent to noncompliance. Many carriers and shippers treat fines as a cost of doing business.

How does the FY 1991 RSPA budget help to address some of the concerns noted in the FHWA report? Provide specific dollar amounts of proposed efforts.

ANSWER: The RSPA sponsored Cooperative Hazardous Materials Enforcement Development (COHMED) program fosters understanding among state and local agencies involved in hazardous materials transportation safety of the need for cooperation in information gathering and enforcement. COHMED also works toward a uniform, deterrent level of penalties as part of the program. RSPA is developing a videotape series which deals with investigative techniques and provides explanation for the judiciary and prosecutors on the importance of the hazardous materials regulations and the seriousness of violations.

Costs for these initiatives are covered by the budget request for training and publication, for prevention and for COHMED. The requested funding for the initiatives described above is $30,000 for all COHMED activities, and approximately $15,000 for the judiciary/prosecutor videotape.

Much work in this area is also being accomplished by the Federal Highway Administration's (FHWA) Motor Carrier Assistance Program and the Commercial Vehicle Safety Alliance (CVSA), an association of state enforcement specialists, are working toward uniform enforcement and sanctions and other aspects of hazardous materials enforcement and adjudication. The FHWA and the CVSA are also working on methods of ensuring accurate gathering of data and addressing training needs for all aspects of highway transportation safety.

ARE HAZMAT ENFORCEMENT EFFORTS MEANINGFUL TO INDUSTRY

SENATOR LAUTENBERG: What is the maximum fine that can be levied by your hazardous materials inspectors?

ANSWER: RSPA's Office of the Chief Counsel assesses penalties for violations of the Hazardous Materials Regulations. The maximum civil penalty that may be assessed for a single violation is $10,000, with each day of a continuing violation constituting a separate violation.

SENATOR LAUTENBERG: How much money was collected in fines last year, and how does that compare to previous years?

ANSWER: In 1989, RSPA collected $457,100 in civil penalties for violations of the Hazardous Materials Regulations. This was a 16% increase over 1988, when RSPA collected $392,900 in civil penalties. RSPA collected $142,125 in 1987 and $106,663 in 1986. The trend has continued upward for the past four years.

SENATOR LAUTENBERG: What is the frequency with which hazardous materials transporters are inspected? How do you measure this?

ANSWER: RSPA does not inspect transporters or carriers of hazardous materials. They are the responsibility of the various modal administrations. For those entities that RSPA does inspect, we have not yet attempted to establish frequencies or intervals of inspection. In formulating policy on inspection and enforcement, RSPA recognized that the regulated population was too large, and its inspection staff too small, to ever contemplate 100% inspection. Our authority is discretionary. We attempt to provide a balanced approach in conducting inspections between "proactive" inspections and "reactive" inspections. Proactive inspections involve a company which has never been inspected before or on which RSPA has no compliance history. Reactive inspections are those conducted because we have received a complaint or some other information about known or suspected noncompliance and we need to verify the allegations. We also conduct inspections of companies previously involved in enforcement cases to determine if enforcement has been effective in gaining compliance.

SENATOR LAUTENBERG: In your view, is the frequency of inspections and the level of fines adequate to really control the practices of the hazardous materials transporters, or is the rare, infrequent, and relatively small fine considered just a cost of doing business by these companies?

ANSWER: RSPA publishes annually a listing of civil penalties collected by the Department for violations of the Hazardous Materials Regulations. Last year 28,000 copies were printed and distributed. While conducting compliance inspections in the field, our inspectors have seen this listing posted on company bulletin boards. This type of "publicity" has a deterrent effect.

RSPA has increased the number of inspections it conducts each year since 1986. At the same time, penalty collections have increased. Although we cannot quantify the effect, we know from experience that inspections of companies in a particular location or industry have a "ripple" effect on other companies in that area or industry. Informal communication networks relay information about DOT inspections being conducted.

Regarding the level of penalties, RSPA very rarely encounters uncontested payments of civil penalties.

REPORTING OF HAZMAT RELEASES

SENATOR LAUTENBERG: What new efforts has RSPA undertaken to assure that hazardous materials releases are reported to the Hazardous Materials Information System?

ANSWER: RSPA published a final rule (Docket HM-36B) in the Federal Register, effective on January 1, 1990, completely revising the incident report form to provide more meaningful data. We published an article in the Hazardous Materials Newsletter to alert the public about this new form. We revised a report preparation handout to accommodate the new form. We distributed the new form and the revised guide to about 30,000 carriers. We also worked with the Federal Railroad Administration to compare its accident reports with our incidents reports to determine if there were missing incident reports. We have been and continue to compare telephonic reports received with written reports to identify missing written reports.

SENATOR LAUTENBERG: What actions are you taking against non-reporters?

ANSWER: RSPA initiates civil penalty enforcement action when it obtains documented evidence that a carrier has failed to report an unintentional release of hazardous materials.

SENATOR LAUTENBERG: How many actions against non-reporters did you take this past year?

ANSWER: In 1989, RSPA initiated 42 civil penalty cases for failure to report an unintentional release of hazardous materials. Seven of those cases are pending. Of the remaining 35 cases, one was withdrawn without further action and 34 were closed with collection of $43,900 in civil penalties.

SENATOR LAUTENBERG: How does that compare to previous years?

ANSWER: The program was started in June 1987. In that year, RSPA initiated nine cases, six of which were withdrawn without further action. The remaining three were closed with collection of $4,000 in civil penalties.

In 1988, RSPA initiated 23 non-reporting cases. One is still pending. Of the other 22, five were withdrawn and 17 were closed with collection of $22,650 in penalties.

Cases were withdrawn after issuance of a Notice of Probable Violation because the respondents presented evidence that either they did report or that no incident requiring a report had occurred.

SENATOR LAUTENBERG: The General Accounting Office recently issued a report that was critical of your hazardous materials information system. Please summarize the GAO's findings.

ANSWER: First, the GAO recommended that the RSPA require reporters of hazardous materials incidents to submit revised incident reports if significant changes occur in previously submitted reports. Second, the GAO recommended that the RSPA require all firms, including shippers, involved with any aspect of the transportation of hazardous materials to submit incident reports. Third, the GAO recommended that the RSPA establish a mandatory registration program for hazardous materials shippers. Fourth, the GAO recommended that the RSPA institute a procedure to routinely compare RSPA incident reports with reports received by other agencies such as the FRA to check for inaccuracies and to identify nonreporters of incidents.

SENATOR LAUTENBERG: How do you respond to the GAO's report?

ANSWER: RSPA believes that a specific requirement to submit revised reports is not necessary. RSPA carefully verifies that reported deaths and injuries are indeed the direct result of the release of a hazardous material. In addition, all reports involving a death or an injury are personally reviewed by the Director of OHMT. Other data in the report are either unlikely to change after the expiration of the 30-day reporting period, or, as in the case of property damage values, are necessarily estimates.

RSPA currently requires the entity most closely related to the release of hazardous materials during transportation, including loading and unloading, that is, the carrier, to submit the incident report. The incident report is also used to identify shippers whose packages are experiencing an inordinate number of releases of hazardous materials during transportation. A reporting requirement for both carriers and shippers would conflict with safety regulations issued by other Federal agencies. It would also unnecessarily complicate the reporting requirement and potentially result in multiple reports of the same incident.

RSPA also opposes the universal shipper registration recommended by the GAO. RSPA already has access to a broad range of data sources that identify shippers, carriers and manufacturers of packagings for hazardous materials. These sources include the hazardous materials incident reports; applications for exemptions, approvals, or explosives registration numbers; lists of hazardous waste generators and transporters maintained by the Environmental Protection Agency; and lists of radioactive materials shippers and carriers licensed by the Nuclear Regulatory Commission. These sources include all of the major and many of the minor shippers of hazardous materials in the United States.

Procedures are in place or under development with the FRA and the FHWA to compare and cross reference hazardous materials incident reports. Please refer to previous discussion under the heading "Hazardous Materials Information System."

HUMAN ERRORS WITH HAZMAT

SENATOR LAUTENBERG: Last year, the Committee expressed concern over CRS study which revealed that 65 percent of all hazardous materials releases are caused by human error. At the time, you responded that RSPA was developing regulations intended to strengthen the training requirements for persons involved with hazardous materials. You expected a proposed rule to be sent to OMB a year ago, April 1989. What is the status of this rulemaking?

ANSWER: The notice of proposed rulemaking was sent to OMB May 10, 1989. Following OMB clearance on July 17, the notice was published July 26, 1989. Two public hearings were held in October 1989. The period for public comment closed in November 1989. Over 90 comments were received. RSPA is presently evaluating the merits of these comments. We anticipate issuing a final rule by the end of this year.

SENATOR LAUTENBERG: Have proposed and final rules been published as yet?

ANSWER: A notice of proposed rulemaking was published July 26, 1989 and a final rule is expected by the end of this year.

SENATOR LAUTENBERG: How long does it normally take for OMB to review your proposed rules?

ANSWER: Generally, OMB review of our proposed rules takes from one to two weeks. On occasion, the review takes longer.

SENATOR LAUTENBERG: What about final rules?

ANSWER: The time period for OMB review generally has been the same for both notices and final rules, usually one to two weeks, occasionally longer.

HAZMAT RESEARCH NEEDS

SENATOR LAUTENBERG: A November 1989 FHWA report entitled "Present Practices of Highway Transportation of Hazardous Materials" identified the following topics as high priority items for future research in the highway transportation of hazardous materials:

1. Improve the Quality of HAZMAT Safety Data.
2. Demonstrate Improved HAZMAT Risk Assessment and Routing Models.
3. Establish the Cost-Effectiveness of HAZMAT Routing Requirements.
4. Evaluate Risk of HAZMAT Incidents at Special Facilities.

How does your FY 1991 budget address each of these four items? If those items are not addressed, please explain why and outline the scope and nature of research projects that would be necessary as well as the level of funding to address properly each of these topics.

ANSWER: Of the four topics identified in the FHWA report as high priority items for future research, the first is a constant goal of RSPA's Office of Hazardous Materials Transportation (OHMT) and continues to be reflected in OHMT's research budget for Information and Analysis. In FY 1991 RSPA proposes to maintain OHMT's FY 1990 funding level of $240,000 to develop new and integrate existing automated data systems that support hazmat regulatory activities. Topics 2 and 3 are integral aspects of an ongoing rulemaking effort to establish federal standards for state designation of highway routes for hazardous materials, funding for which is included in RSPA's FY 1991 request for $350,000 of research funding for regulatory analysis, an amount equivalent to the FY 1990 level of funding. The fourth research topic may have been directed at the FHWA, as it involves safety at fixed sites where FHWA inspectors examine transport vehicles. In any event, it is not an RSPA research priority at this time.

RULEMAKINGS

SENATOR LAUTENBERG: How many petitions are now before RSPA in the area of hazardous materials? What about in the pipeline area?

ANSWER: RSPA has 288 outstanding petitions for rulemaking in the area of hazardous materials. In the pipeline area, there are currently 2 petitions for rulemaking.

SENATOR LAUTENBERG: Do you believe safety is being compromised because of the number of petitions still awaiting action by RSPA? Do you have the regulatory and technical staff to handle these petitions in a timely fashion?

ANSWER: Safety is not being compromised. RSPA staff review each petition when received. Petitions which involve safety issues are given priority handling. Non-safety or regulatory reform issues which do not address safety or significant economic impacts are given lower priority.

INSPECTOR STAFFING

SENATOR LAUTENBERG: You have continued to ask in recent years for additional inspectors for hazardous materials. You are requesting two additional positions for the Hazmat Office in this year's budget. As a result of this request, the inspection force in hazardous materials will have increased from 13 in 1988 to 24 in 1991. Is this what you see as the correct staffing level, or do you anticipate continuing to request additional staff in future years for hazardous materials?

ANSWER: RSPA's goal for the hazardous materials program is to reduce the amount of non-compliance with Federal regulations in the hazardous materials industry. The additional positions will provide the level of staffing that we believe is correct for FY 1991.

SENATOR LAUTENBERG: What are the total number of Hazmat inspectors you now have on board? How do you intend to use the two additional inspectors that you are requesting for 1991?

ANSWER: At the present time, all 3 of the supervisory and 18 of the 19 hazardous materials inspector positions are filled with enforcement professionals currently on board (14) or scheduled to come on board within the next month (4).

The two additional inspector positions requested for FY 1991 will enable RSPA to maintain its established level of enforcement activity while increasing the participation of enforcement specialists in federal/state efforts under the Cooperative Hazardous Materials Enforcement Development (COHMED) program.

SENATOR LAUTENBERG: How will the additional staff help to address some of the 40 open rulemaking projects that you have on line?

ANSWER: The additional staff requested for FY 1991, like the hazardous materials inspectors already on board, will enforce regulations and inform the standards specialists of observations from the field that may have regulatory implications. As a general proposition, however, their participation in the development of rulemakings is advisory.

REORGANIZATION OF RSPA

SENATOR LAUTENBERG: Would you please briefly describe RSPA's reorganization plan.

ANSWER: The basic elements of the reorganization proposal:

- Consolidates several currently split functions under a single Associate Administrator responsible for research, technology transfer, training, emergency transportation response, and airline statistics.
- Formalizes Deputy Administrator position and establishes four Associate Administrator positions.
- Establishes a Program and Policy Support Staff to manage functions for policy review and analysis, public affairs, and executive the secretariat.

SENATOR LAUTENBERG: What is your objective in reorganizing the agency?

ANSWER: The objectives of the reorganization are:

- To streamline the reporting structure within RSPA (reduces from 10 to 7 the number of organizational elements reporting directly to the Administrator).
- To provide direction under the Associate Administrator for Research, Technology, and Analysis for programs currently located in five offices.
- To highlight leadership roles for RSPA in hazardous materials and pipeline safety through the creation of new Associate Administrators.
- To create a Washington focus for the Boston-based Transportation Systems Center.
- To establish an organizational structure and authority comparable to other operating administrations within DOT.

SENATOR LAUTENBERG: What is the status of the reorganization, and when do you expect it to be implemented?

ANSWER: The reorganization proposal has just been circulated throughout the Department for review. We expect to receive comments from other Departmental elements and hope to have the new organization in place within the next few months.

SENATOR LAUTENBERG: Is RSPA currently operating at its full staffing allocation of 214 positions, or are there vacancies?

ANSWER: RSPA currently has several Full-Time Permanent (FTP) vacancies in various offices, and currently operates at less then the 214 FTP allocated. However, there are Other-Then-Full-Time-Permanent (OTFTP) positions (temporary employees, part-time employees) which raise the total onboard count to approximately 214 positions.

SENATOR LAUTENBERG: In what offices are these vacancies?

ANSWER: The FTP vacancies are in the Office of Research and Technology, the Office of Aviation Information Management, the Office of Hazardous Materials Transportation, the Office of Pipeline Safety, and the Office of Management and Administration.

SENATOR LAUTENBERG: When do you intend to fill them?

ANSWER: We have a recruitment effort which addresses each vacant FTP positions. We are proceeding with planned hires according to a schedule which is based upon priority needs of the agency.

SENATOR LAUTENBERG: Can we expect you to have filled all 214 positions by the end of the fiscal year? If not, why not?

ANSWER: We may not have all 214 FTP positions filled by the end of FY 1990. Several of the vacancies are in highly specialized or technical areas, for which extensive job searches are necessary. In addition, the onboard OTFTP positions may limit our ability to reach full FTP strength this fiscal year.

TRANSPORTATION SYSTEMS CENTER

SENATOR LAUTENBERG: What percentage of the work done up at the Transportation Systems Center (TSC) is done for the Department of Defense?

ANSWER: In FY 1989 about one quarter of TSC's obligations and one quarter of its civil service staff were devoted to Department of Defense projects. TSC assists the Department of Defense (DoD) in the strategic planning of management information systems, rehabilitation of DoD-owned transportation infrastructure, and in the application of transportation security technology to the physical security of military bases.

SENATOR LAUTENBERG: Is the TSC doing research for other non-transportation agencies such as FEMA?

ANSWER: Yes. For FY 1989 (and projected for FY 1990) about five percent of TSC's civil service staff and $2.5 million in TSC obligations supported other federal agencies. Most of this represents support provided to the Departments of State and Commerce, the Environmental Protection Agency, and the National Aeronautics and Space Administration.

SENATOR LAUTENBERG: What about other modal agencies in the Transportation Department? For which agency is the majority of work being done?

ANSWER: TSC supports most of the operating administrations in the Department of Transportation. The level of support for FAA is largest (about half of TSC's obligations), followed by USCG, NHTSA, FRA, OST, and RSPA.

SENATOR LAUTENBERG: What would be the advantages and disadvantages of TSC doing less work for the Department of Defense and more work for State and local government?

ANSWER: Reducing DoD-sponsored work at TSC would adversely impact inter-departmental synergism. Since 1985, TSC has actively served as a bridge between national civil and military transportation interests. This has enabled DoD and DOT agencies to improve inter-departmental transfer of innovative transportation and logistics system concepts. Examples include adapting the civilian airspace management system to provide for daily allocation of special use airspace for military operations, and the development and cross-adaptation of aviation safety systems such as the FAA Aviation Safety Analysis System and the Military Traffic Management Command's Air Carrier Analysis System. TSC also assists DoD in applying advanced analytical techniques, engineering assessments, and management strategies to cost effectively meet peacetime and national emergency requirements through optimal combinations of civilian and military transportation system infrastructure and assets.

Having TSC do more work for State and local governments would be consistent with the National Transportation Policy intent to assist State and local governments in renewing the capacity and performance of the U.S. transportation system by reducing congestion through improved management and use of key transportation facilities, new technology, and capacity enhancements. TSC's familiarity with multi-modal data, information systems technology, advanced traffic management technologies, and multi-modal systems approach undoubtedly could be put to advantage in support of nationally significant state and local transportation concerns.

SENATOR LAUTENBERG: What work is the TSC doing in the area of aviation security?

ANSWER: Aviation security is an important component of the overall TSC emphasis in transportation security issues. Efforts being conducted on behalf of the FAA relate to the development of an explosives detection system for screening passengers and the assessment of threats / vulnerabilities associated with FAA air traffic control computer systems.

In concert with its FAA-sponsored aviation security work, TSC also coducts related research and development efforts that facilitate cooperation and the transfer of technology among federal transportation security agencies.

These TSC efforts include the development of an advanced security system for the U.S. Customs Service hangar at San Angelo, TX, airport and participation in the Air Force Base Installation Security program that seeks to improve airfield access control and perimeter intrusion detection through the use of advanced sensor and information / image processing technologies.

SENATOR LAUTENBERG: How does TSC disseminate the results of its research to the broader transportation community?

ANSWER: Dissemination of the results of TSC's research and analysis is ensured by the way in which the Center operates, and it takes place in several ways. A significant part of TSC's dissemination activity is devoted to the conduct of seminars and other outreach activities which facilitate information exchange among members of the U.S. and international transportation communities. TSC conducts multimodal technology sharing programs, providing technical assistance to state and local governments as well as private transportation companies and universities. The TSC Center for Transportation Information develops and publishes annually for the Department of Transportation a number of authoritative documents giving national statistics concerning transportation usage, safety, airline tariffs, etc., and the TSC Technical Reference Center is operated to assist in providing the public with TSC reports. Client agencies that have sponsored projects at TSC also pass the results of such efforts along to constituent groups within the transportation community through client agency technology sharing mechanisms and the National Technical Information Service.

Finally, the TSC is working with the core technology sharing program located in the RSPA Office of Research and Technology to ensure coordination and continued improvement in the process of information dissemination.

SENATOR LAUTENBERG: What opportunities are available to strengthen or expand the missions, functions and status of the TSC? How could these opportunities become realities?

ANSWER: There are many opportunities for TSC to expand its mission, functions and status in relation to national needs in transportation. Demand is growing for TSC services in areas such as infrastructure needs, understanding the transportation role in economic growth and competitiveness, enhancement of airport/airway capacity, strengthened transportation security, drug interdiction, better transportation of hazardous materials, as well as supporting implementation of the National Transportation Policy. In each of these areas there is a need for TSC to serve as a bridge between federal interests, those of industry and academia, as well as state and local governments.

Because TSC is customer funded, demand for its services is set by its "market" and is growing at the rate of 20 percent per year. TSC employment is subject to the Executive Branch personnel ceiling process. We intend to explore options to determine how TSC might handle this growth with adequate personnel levels.

PUBLICATION OF THE EMERGENCY RESPONSE GUIDEBOOK (ERG)

SENATOR LAUTENBERG: The FY 1990 budget request contains no funds for the publication and distribution of the Emergency Response Guidebook. Have your original estimates on the demand for the new edition of the ERG changed?

ANSWER: In FY 1990, we requested $800,000 for publication of the ERG. We projected a fifteen per cent increase in demand for the 1990 ERG above the previous edition. Recently, states' requests have increased approximately ten per cent beyond our original estimate.

SENATOR LAUTENBERG: Can you meet the current demand within your current FY 1990 budget if GPO rates are paid?

ANSWER: Our ability to meet the states' needs is directly dependent upon the costs to be incurred for printing, handling, and distribution. RSPA has not yet been able to obtain firm cost estimates from the Government Printing Office (GPO).

SENATOR LAUTENBERG: Does RSPA intend to obtain competitive bids for the publication of the ERG?

ANSWER: No. As required, we're following GPO procedures for the printing and distribution of the 1990 ERG. To facilitate the competitive procurement process, RSPA provided GPO with the names of commercial printers that wish to bid on the ERG printing.

SENATOR LAUTENBERG: Are there any legal restrictions on this option?

ANSWER: RSPA does not have an alternative to GPO printing procedures, e.g., direct solicitation of competitive bids. We are required to comply with the requirements of the Joint Committee on Printing and those of the GPO governing the printing and distribution of the ERG which require us to accept the services of whichever printer GPO selects for the job.

REQUEST OF OMB FOR PIPELINE, HAZMAT INSPECTORS

SENATOR LAUTENBERG: What was the overall level of funding and number of inspectors you asked of OMB for the Office of Hazardous Materials Transportation? How does that compare with the request before us?

ANSWER: The Departmental budget request submitted to OMB sought 2 additional inspector positions and total administrative and program funding of $10.6 million for the Office of Hazardous Materials Transportation. As approved by OMB, the request submitted to Congress retained the 2 inspector positions and reduced the funding level to $9.7 million.

SENATOR LAUTENBERG: How about for pipeline safety? How many positions did you request, and what overall level of funding did you ask for from OMB in your initial budget submission? How does that compare with the request before us?

ANSWER: The Departmental budget request to OMB sought 9 new positions and total administrative abd program funding of $11.3 million for the Office of

Pipeline Safety. As approved by OMB, the request submitted to Congress retained the 6 positions and reduced the funding level to $10.8 million.

COMMODITY FLOW STUDIES

SENATOR LAUTENBERG: RSPA is currently developing a primer to help State governments conduct commodity flow studies. Does your FY 1991 budget provide funds to test the validity, reliability and usefulness of such a primer?

ANSWER: No, it does not.

SENATOR LAUTENBERG: How would such a demonstration or "test" be useful?

ANSWER: The primer will include a discussion of various statistical techniques that can be used to check the validity, increase the reliability, and enhance the usefulness of the information obtained through commodity flow studies. It is not necessary to test the soundness of these already well established statistical theories and sampling techniques.

It is always useful, however, to field-test a primer's effectiveness in communicating analytical methodologies to the laymen for whom the primer is intended. Explanations that seem clear to the specialist are often incomprehensible to the generalist. Conversely, attempts to simplify technical matters that underestimate the abilities of the intended user can render the work equally useless.

Throughout the development of the primer, RSPA has worked closely with the TRANSCAER Committee of the Chemical Manufacturers Association (CMA) to obtain members' comments on the clarity of the draft text. When the primer has been completed, it will be field tested in the TRANSCAER demonstration sites in New Jersey, Michigan and Texas.

SENATOR LAUTENBERG: How much would such a demonstration project cost?

ANSWER: The demonstration project to be undertaken by CMA's TRANSCAER Committee will be at no cost to the government. It is, therefore, not reflected in RSPA's budget request.

Coordination of Research and Development

SENATOR LAUTENBERG: Coordination of the DOT's research and development used to be performed by an Assistant Secretary for Systems Development and Technology located in the OST. This position has been abolished. Does RSPA's Office of Research and Technology perform this function as well as the OST position?

ANSWER: The Office of Research and Technology provides analysis and advice in support of the DOT Research and Development Coordinating Council, and staff support to its chairman, the RSPA Administrator. Actual coordination of the DOT R&D program is the responsibility of the Council, acting through its chairman. One of the key problems with the old Assistant Secretary for Systems Development organization was that guidance was provided and program changes were requested without thoroughly considering the individual specific requirements of each administration's R&D program. The current approach is to provide a cooperative forum for identifying joint directions to pursue, without mandating directions from outside. Responsibility for implementation of joint projects is shared by the Council members. The Council Chairman serves as a convener and coordinator and, when appropriate, as an advocate to the budget process when additional resources might be needed.

Office of Research and Technology

SENATOR LAUTENBERG: Please provide a detailed listing of the accomplishments of the Research and Development Coordinating Council which is headed by the RSPA Administrator. How have the results of this Council influenced changes and improvements in the Department's management and review of research and development?

ANSWER: In 1989 the R&D Coordinating Council Chairmanship was reassigned to the RSPA Administrator after the position of DOT Chief Scientist, the previous chairman, was abolished. Emphasis since then has been on rationalizing the program development process for the DOT R&D program, viewing it as a key tool to improve transportation systems. The ongoing development of this process is the key achievement of the Council since the RSPA Administrator assumed the Chairmanship. Key elements of the process include:

o A formal R&D Policy (now completed in draft for review within DOT), consistent with the National Transportation Policy, which sets forth the formal guidelines for initiating or supporting R&D within DOT;
o Use of coordination papers previously developed by the Council on topics like navigation systems, human factors research, technology sharing, and other topics to help preclude duplication during each administration's program development process;
o Involvement of staff from RSPA and other elements in review of preliminary budget submissions to support the deliberations of the Assistant Secretary for Budget and Programs in finalizing the DOT budget request.

The Council will also be working to implement the R&D elements of the National Transportation Policy, issued in March 1990, on a consistent basis Department-wide for R&D.

SENATOR LAUTENBERG: What access does the RSPA Administrator have with the OST in implementing the recommendations of the coordinating Council?

ANSWER: The RSPA Administrator, in another role, currently serves as the senior technical advisor to the Secretary, and as such has direct access to him as required. Active working relationships are maintained with all OST Assistant Secretaries, just as all DOT Administrations do. In one particularly key relationship, each year the Assistant Secretary for Budget and Programs requests the RSPA Administrator, in his role as the Secretary's technical advisor, to review the technical elements of all the modal administration budget submissions. This has been a key vehicle for assuring that points surfaced by the Council receive attention in the budget process.

SENATOR LAUTENBERG: Is the effectiveness of the Council dependent on the RSPA Administrator's access to OST and the Secretary?

ANSWER: Only in part, when additional resources are required for an initiative. One of the strong points of the current arrangement is that each Council member has authority for the budget he/she represents on the Council. If the Council as a body decides to do something, and resources are already available in the context of ongoing programs, the members can do it on their own.

SENATOR LAUTENBERG: Please evaluate the effectiveness of the DOT's technology transfer and sharing policies and accomplishments. How does the Coordinating Council help improve the effectiveness of these efforts?

ANSWER: Most studies of the technology transfer process haves stressed that a "pull" strategy, in which users of technical information define the materials to be transferred reflecting their own needs, is far more effective than a "push" strategy, where materials developed centrally are promoted to potential users without their involvement earlier in the process. DOT has placed heavy emphasis on this "pull" philosophy in its technology transfer programs, including the implementation efforts for the Technology Transfer Act of 1986, networks like the FHWA and UMTA RTAP programs, the programs of the individual administrations themselves, and the core Technology Sharing program. As the user concern and response to the possible elimination of the core Technology Sharing program demonstrated two years ago, users have come to depend on the DOT efforts, since they had a key role in defining them and their products. The R&D Coordinating Council has participated peripherally in the process of rationalizing the technology transfer programs, but the key element in the effectiveness of the DOT efforts has been the enthusiastic involvement of users in state and local governments and throughout the transportation sector. We are proud of our technology sharing efforts, individually and collectively: they have been shown to have significant positive qualitative and quantitative (cost savings) benefit for the relatively small amount invested.

SENATOR LAUTENBERG: For each of the modal administrations please describe how the Coordinating Council has improved the effectiveness of their technology-sharing and transfer activities.

ANSWER: As previously mentioned, the Council sponsored a summary examination of the technology sharing/technology transfer activities of the Department. One of the conclusions was that the existing mechanisms and activities in this area were operating in a manner which would assure continued emphasis and improvement in these areas. The Office of Research and Technology in RSPA has a key role in this area, acting as a centralized source for oversight and stimulation of technology sharing/transfer activities. The Council, however, is continuing to address this area in light of increased implementation activities associated with the Stevenson-Wydler Act (as amended) and the fact that this topic is a focus of some of the implementation activities associated with the National Transportation Policy.

SENATOR LAUTENBERG: The FHWA funds substantial research activities of importance to MCSAP. How does the ORT aid FHWA in disseminating these results?

ANSWER: MCSAP, the Motor Carrier Safety Assistance Program, is not primarily a research and development activity, but an enforcement one. Under this program the Federal Highway Administration provides grants to states to enforce Federal and compatible state motor carrier safety and hazardous materials regulations. The emphasis of these activities is on state-level enforcement. FHWA supports the program through SAFETYNET (a management information system provided to the states to assist in monitoring their motor carrier safety programs), and a variety of cooperative activities with the Commercial Vehicle Safety Alliance (CVSA). The FHWA views the CVSA, which currently includes 46 states and 10 Canadian provinces, as the focal point through which states participate in the MCSAP. Because of the active communication and consultation mechanisms available through CVSA, including two national meetings each year and FHWA involvement in CVSA committees, there has been no reason for extensive ORT involvement in the process.

SENATOR LAUTENBERG: What does FHWA or ORT do to assure the dissemination of the research results to all of the states participating in MCSAP? Please be specific for each of the contracts or discretionary-research oriented grants funded during the last three years by explaining how the results and benefits of these research activities were widely disseminated by ORT or FHWA.

ANSWER: Again, MCSAP is primarily an enforcement program, and few of its elements are actually research. A copy of the most recently released MCSAP report, which includes a description of all the grants and contracts funded, is included. Some very preliminary discussions have been held with FHWA about the potential for national dissemination of an Arizona project on a methodology to target high-risk drivers, but the ORT role in this process has not been finalized.

STRENGTHENING OF COHMED

SENATOR LAUTENBERG: What steps is RSPA taking to expand and strengthen the emergency response and planning components of COHMED?

ANSWER: RSPA provides breakout sessions and committees for enforcement and emergency response personnel at both the Semi-Annual and National COHMED Conferences. Emergency response issues are addressed in the COHMED Newsletter, published quarterly for COHMED participants. The COHMED leadership has been expanded to include a national and four regional emergency response liaisons.

SENATOR LAUTENBERG: How does your FY 1991 budget reflect support for this aspect of COHMED?

ANSWER: The budget request incorporates adequate resources to support all elements of the COHMED program. Facilities are provided for enforcement and emergency response activities at conferences. Information on emergency preparedness and response is included in the COHMED newsletter.

SENATOR LAUTENBERG: Is a new organization needed to foster emergency preparedness, planning and response or could this be done within COHMED?

ANSWER: While some law enforcement officers respond to hazardous materials incidents, the primary makeup of COHMED is the hazardous materials enforcement community. COHMED can address some issues of emergency response, but that is not its major focus. RSPA, in conjunction with FEMA, EPA, DOL and other Federal agencies, is in the process of forming a new organization with emergency preparedness as its focus. The "National Task Force on Hazmat Emergency Management" is multi-organizational, representing the interests of both states and local governments and industry in cooperative policy development and program delivery. It will serve as a forum for assessing national needs and promoting more effective application of the nation's existing resources to meet those needs.

INTERGOVERNMENTAL EXCHANGE

SENATOR LAUTENBERG: What are the costs and benefits of the intergovernmental "internship" program run for state HAZMAT personnel by the Federal/State and Private Sector Initiatives Division? Why is it essential that this program continue to be funded?

ANSWER: The somewhat small cost of the hazardous materials specialist program, $77,000, will pay benefits to both the states and to the Federal government in fostering a consistent national system for hazardous materials transportation safety. State laws and regulations will be shaped by an understanding of the rationale behind the Federal regulatory and enforcement system and of the need for consistency in regulation, enforcement and emergency response.

The program provides a core of hazardous materials specialists in the states who will form the base of a nationwide, proactive program for the safe transportation of hazardous materials, with uniform regulation development and enforcement. This also will reduce the need for inconsistency rulings, which are reactive and often have a negative impact on Federal/state cooperation.

FOUR AGENCY PROPOSAL

SENATOR LAUTENBERG: We understand that RSPA is working with EPA, OSHA, and FEMA to develop a coordinated and collaborative strategy to improve training for state and local emergency responders as well as to strengthen various prevention and preparedness activities. Please elaborate on the scope, nature and funding that will be required for this proposal.

ANSWER: RSPA is working with FEMA, DOL, EPA and DOE to develop a coordinated and collaborative strategy as you describe. RSPA is considering the needs, available options and funding requirements as part of its comprehensive emergency preparedness proposal. Principle elements of the proposal would be the development and delivery of a standardized curricula for handoff to key state personnel, technical assistance to quantify hazards posed by hazardous materials in transportation, review of emergency plans and exercises and promoting the development of multi-jurisdictional "hazmat" response teams. Additionally, financial assistance would be provided to states to support these activities through existing emergency systems.

OFFICE OF EMERGENCY TRANSPORTATION

SENATOR LAUTENBERG: What contacts or relationships does OET have with State emergency planners? How do Federal plans for emergency transportation interface with State plans?

ANSWER: The Office of Emergency Transportation (OET) has contact with State emergency planners through its Regional Emergency Transportation Coordinator (RETCO) system. This system is managed by OET and is key to the Department of Transportation's (DOT) emergency preparedness and response structure. The RETCO system provides for a senior DOT regional official designated by the Secretary to serve in a collateral capacity as the coordinator for all emergency programs in each of the 10 standard Federal regions and Alaska. Their contacts with State emergency planners cover the full spectrum of emergency situations with transportation impacts. OET provides the RETCO with policy guidance, management direction, and support. There are a number of formal regional committees and task forces sponsored by the Federal Emergency Management Agency which provide for an interagency relationship between the Federal community and State and local emergency planners. The RETCO usually represents the Department on such bodies.

State and local governments, along with private industry, are an integral part of the transportation response to any emergency. Federal plans recognize this relationship and are fully compatible with State and local plans. General, Federal plans provide for State and local management of assets under the broad policy guidance and support of the Federal Government to the degree required to meet national objectives.

SENATOR LAUTENBERG: In an emergency situation, one of the major functions of the Office of Emergency Transportation is to relay, coordinate, and assemble information gathered in the field to senior decisionmakers at the DOT. Given the rapid advances in communications, the large staff of the Office of the Secretary, the emergency awareness and response centers at the Federal Emergency Management Agency, and the National Response Center, why couldn't some of the functions of the OET be performed elsewhere at less cost?

ANSWER: OET is not just a planning element, it is also an operational organization. OET serves as the initial operational staff for the Department in management of a crisis situation. OET has multiple functions in both domestic and national security emergencies, of which information gathering and reporting is but one small part. As the Secretary's staff element for emergency preparedness and response activities, OET has the unique, professional transportation emergency management expertise required for this mission. There are no OST staff personnel with the requisite capabilities to focus on emergency preparedness. The Federal Emergency Management Agency (FEMA) does not, and should not, have transportation resource management responsibilities. Such functions properly reside in the same organization in emergencies as in normal times, specifically DOT. OET does provide transportation staff support to the interagency coordinating bodies created by FEMA in times of emergency. Finally, the National Response Center is only an alert notification network, principally for hazardous materials incidents. It is not intended to be an emergency management and operations organization and does not have that capability.

OET provides a small cadre of skilled emergency management professionals with a Department-wide focus immediately available in an emergency. All DOT communication resources are fully incorporated into OET's response plans. This concentrated and coordinated capability provides a cost-effective approach to the Department's emergency responsibilities.

SENATOR LAUTENBERG: I see that the Office of Emergency Transportation is asking for roughly a 10 percent increase. One of the main functions of this office is the planning for continuity of government in the case of nuclear conflict. Given the diminished likelihood for such a conflict, why are we not seeing a reduced funding request for the Office of Emergency Transportation?

ANSWER: The Office of Emergency Transportation (OET) has a wide range of programs for emergency preparedness and response. Continuity of government is but one of these program elements. Further, "continuity of government" is not exclusively directed toward nuclear conflict; such a conflict only provides the worst case scenario. The continuity of government plans and procedures provide for a continuation of the essential functions of the Department in any case where the normal command and control of government operations are disrupted, causing the President or the Congress to declare a national emergency.

Although, there is a perception that the threat of a nuclear conflict has declined, in reality, there has been no actual diminution of the World's nuclear capability. Therefore, the Secretary must have the capability to carry on the essential functions of the Department for the good of our citizens. OET provides that staff element to maintain and ensure that the capability exists.

SENATOR LAUTENBERG: What percentage of the OET budget deals with defense or national security issues?

ANSWER: This question is almost impossible to answer without sheer conjecture, since preparedness activities are interrelated. A large portion of OET's activities are related to "national security" in a broad sense. However, in this broad sense, many of OET's programs have both civil and military components which are hard to separate distinctly. For example, OET develops plans to manage civil transportation resources in emergencies, but these plans address a balance between essential civil and military requirements for transportation. This balance is the essential reason why such planning rests with a civilian agency, not the military. Although these plans are clearly applicable to mobilization and war, elements might also be implemented in a catastrophic earthquake that erodes our economy or degrades our national security, again in a broad sense. Other major program areas, such as continuity of government, international activities, and emergency data management, have similar civil and military applications.

SENATOR LAUTENBERG: What percentage of the OET budget is for the work you do to prepare for natural disasters, such as the recent California earthquake and Hurricane Hugo?

ANSWER: As noted above, it is difficult to clearly distinguish between strictly civil and defense-related functions. Certainly, planning for catastrophic natural disasters, as well as crises such as strikes in the transportation industry, will receive renewed emphasis as a result of the attention generated by last year's extraordinary events. Enhancements to DOT's emergency response capabilities resulting from these events are already being implemented. Preparedness to respond to any domestic emergency -- earthquakes, nuclear power plant accidents, hurricanes, labor actions, and so on -- will consume an increasing share of OET's operational budget in FY 1991 and beyond. It should be noted that OET's operational and research and development budget has suffered a gradual erosion over the past few years, even in the face of increasing functional demands.

EMERGENCY PREPAREDNESS

SENATOR LAUTENBERG: What is the appropriate federal role in emergency preparedness for hazardous materials accidents?

ANSWER: The federal government has a definite role to play in this important arena, but one that is properly limited to issues of national impact. This would include the development and maintenance of a national program of emergency preparedness that stresses the importance of planning and training.

Much is already being done by several agencies, including the Department of Transportation, to meet these national goals. RSPA has been spearheading an interagency initiative geared toward the development of a core curriculum, limited state grants for training purposes and technical support for development of regional response teams. To this end, RSPA has been working with the Department of Labor, the Environmental Protection Agency and the Federal Emergency Management Agency.

We are working with OMB to define the outline of a comprehensive, coordinated emergency preparedness program and look forward to reporting on the details of these efforts as soon as a proposal has cleared OMB.

LEGAL SUPPORT FOR PROCUREMENTS

SENATOR LAUTENBERG: We understand that the legal office at TSC has assisted the procurement office at TSC. If this procurement function is transferred to headquarters, could the legal office at TSC continue to provide legal assistance to supplement the activities of RSPA's Chief Counsel'sOffice?

ANSWER: The RSPA Chief Counsel's Office is providing legal support for the newly established contracting and procurement functions located at headquarters. This Office is organized to handle only headquarters procurement requirements. Because legal support was not provided for the past several years by the Chief Counsel's Office, they are receiving additional training to familiarize themselves with Government acquisition rules and regulations. If questions arise for which TSC legal assistance is requested, TSC legal staff are available to support the Chief Counsel's Office.

RADIOACTIVE MATERIALS INSPECTOR

SENATOR LAUTENBERG: Until recently, RSPA employed a health physicist who conducted enforcement investigations on radioactive materials shipments. Has RSPA replaced this individual with an inspector that is certified as a health physicist? If not, why not?

ANSWER: In attempting to fill this vacancy at the GS-13 level, RSPA had difficulty in attracting qualified candidates with health physics backgrounds. RSPA decided to bring someone into this position at a lower grade and train the employee, with the expectation that the employee would stay longer with the organization. RSPA was fortunate to attract a candidate from another modal administration who not only had some experience in conducting radioactive materials--some of which was with RSPA's former radioactive materials inspector--but also expressed interest in pursuing formal education in health physics. In addition, the new inspector has experience in other inspection areas which the previous specialist did not.

We believe we have made an excellent choice.

SENATOR LAUTENBERG: Does RSPA adequately inspect this segment of the hazardous materials industry? Provide statistics to document your answer, including an estimate of the size of this industry and the annual number of shipments.

ANSWER: RSPA has only recently renewed its radioactive materials inspection program, having done very little since the departure of the specialist in August 1988. RSPA does not have a reliable estimate regarding the size of the industry, but is currently developing an initiative, along with three other Federal agencies, to collect this information. Regarding annual shipments, the number 1 million has been used, but this may be a conservative estimate.

SENATOR LAUTENBERG: Please explain how RSPA's enforcement program would be strengthened if an additional inspector who is a certified health physicist were added to your staff.

ANSWER: If RSPA had two inspectors devoted to radioactive materials inspections, it could conduct more inspections. RSPA does not believe that it necessarily needs certified health physicists to conduct an effective radioactive materials inspection program. Our experience has demonstrated that persons without technical backgrounds but with good investigative skills and a willingness to learn can be trained to conduct effective inspections in highly technical areas.

ADEQUACY OF RADIOACTIVE MATERIALS TRANSPORTATION REGULATIONS

SENATOR LAUTENBERG: Does RSPA plan to improve its regulations that pertain to the total dosage that a transportation worker might receive during the shipment of radioactive materials?

ANSWER: RSPA has long been concerned about radiation dose to transport workers. Currently, external radiation dose is controlled by limitations on package and vehicular radiation levels and specifications on minimum separation distances between packages and occupied areas. Internal radiation dose is controlled by limits on the external contamination on the packages. These radiation levels have maintained radiation doses within guides recommended by the National Council on Radiation Protection and Measurements. However, because the number of transported packages of radioactive materials has increased in the past few years, RSPA has been reevaluating those levels. RSPA believes current levels are adequate for most shipment of radioactive materials but they may not be adequate for some frequent shippers and carriers of radioactive materials for medical use.

Accordingly, on November 14, 1989, RSPA published a notice of proposed rule (NPRM) addressing, among other topics, radiation dose limitations to transport workers (54 FR 47454). RSPA proposes that radiation doses be limited to the radiation protection guides for occupational exposure developed by the U.S. Environmental

Protection Agency and approved by President Reagan on January 20, 1987 (52 FR 2822). To meet this requirement, shippers and carriers would be required to institute radiation protection programs to ensure that transport worker doses would not exceed regulatory limits. This program would require evaluation and monitoring of radiation doses and training of the workers concerning radiation hazards. Shippers and carriers would also be required to implement methods to limit radiation doses that transport workers receive. Implementation of the radiation protection program would provide a greater degree of control over transport worker doses than current methods.

SENATOR LAUTENBERG: How do DOT regulations adequately protect transportation workers from radiation exposure over a long period of time? Please explain your response in detail.

ANSWER: Current transport worker radiation dose is controlled by regulatory limits on package and vehicular radiation levels, separation distances between groups of packages and between packages and occupied areas, and contamination limits on the external surfaces of packages. Additionally, RSPA has published a notice of proposed rulemaking (54 FR 47454) that would require shippers and carriers to establish radiation protection programs that would further limit the dose that a transport worker could receive.

Both current and proposed levels are based on nationally and internationally accepted radiation protection guides (RPG). The RPG assume that any exposure to radiation increases the risk of health effects. Because of this assumption the RPG have been established at a level that is a small fraction of the radiation levels at which health effects are expected to occur. The RPG thus ensure that the risk of health effects is at an acceptably low level.

Transport worker dose at the RPG limit would cause a small increase in the risk of health effects. However, because only a small fraction of transport workers will be exposed to radiation levels at the RPG level, the overall risk to radiation workers is even lower.

In summary, the current and future DOT regulations are consistent with the RPG. The RPG are established at levels that will ensure an acceptably low level of risk for transport workers. The majority of transport worker radiation doses are well below the RPG. Current DOT regulations will adequately protect transport workers from radiation exposure over a long period of time. Finally, proposed DOT regulations would further control the total radiation dose received by transport workers.

RSPA'S COORDINATION OF THE DOT HAZARDOUS MATERIALS INSPECTION EFFORT

SENATOR LAUTENBERG: During the last four years, reports by GAO, OTA and CRS have identified major areas of concern regarding various modal administrations' hazmat enforcement programs. Do these reports suggest the need for RSPA to do a better job in coordinating and improving the overall DOT hazmat enforcement effort?

ANSWER: The various reports on the Department's decentralized hazardous materials enforcement programs have focused on a broad range of issues which go beyond the question of whether or not RSPA is doing an adequate job of "coordinating" enforcement. Nevertheless, it is true that RSPA is better able to direct the efforts of its own inspectors than those of the modal administrations.

SENATOR LAUTENBERG: Is RSPA in a position to accomplish this objective effectively, or are the modal administrations too "powerful" for RSPA to deal with?

ANSWER: Effective coordination of separate programs requires the ability to persuade and, on occasion, compel action by program managers. In fulfilling its responsibility as the lead agency for coordination of the Department's several hazardous materials safety enforcement programs, RSPA has sometimes encountered difficulties which could be attributed to its unique status.

RULEMAKING BACKLOGS

SENATOR LAUTENBERG: For both pipeline safety and hazardous materials transportation, how many petitions for rulemaking are now before RSPA?

ANSWER: RSPA currently has 288 hazardous materials petitions and 2 pipeline safety petitions for review.

SENATOR LAUTENBERG: How long ago were each of these rulemakings started?

ANSWER: Of the 288 hazardous materials petitions, 144 were received before 1980, 67 were received from 1980 to 1985, and 77 were received from 1985 to the present. The 2 pipeline safety petitions were received in 1989.

SENATOR LAUTENBERG: How is safety compromised because of this substantial backlog?

ANSWER: Safety is not being compromised. RSPA staff review each petition when received. Petitions which involve safety issues are given priority handling. Non-safety or regulatory reform issues which do not address safety or significant economic impacts are given lower priority.

SENATOR LAUTENBERG: Do you have the regulatory and technical staff to handle these petitions for rulemaking in a timely fashion?

ANSWER: We have the staff to handle those high priority rulemaking actions which have significant safety or economic impacts. We do not have the personnel resources to handle low priority petitions in a timely manner.

DIVISION OF FEDERAL, STATE, AND PRIVATE SECTOR INITIATIVES

SENATOR LAUTENBERG: For FY 1989 and FY 1990 what is the amount and nature of each of the contracts managed by the Division of Federal, State, and Private Sector Initiatives?

ANSWER: The division has several contracts and reimbursable agreements in place for FY 1989 and 1990. The first contract is with the Commercial Vehicle Safety Alliance (CVSA) for an awareness display for meetings, conferences and trade shows. The display is used alone or with a matched system with the Federal Highway Administration and the CVSA. Funding for the two fiscal years is $32,000 and $34,690, respectively.

The second contract, also with the CVSA, made in FY 1989 for $70,000, provides for the cataloging of safe havens for explosives vehicle parking and development of a consensus standard for design and operation of safe havens.

The third contract, from FY 1989 funding at $40,000, is with the State of Arizona and four other states to measure wall thickness of cargo tanks in sulfuric acid service to determine compatibility of the lading with the tanks and the adequacy of retest requirements.

The division also works cooperatively with the Department of Energy, the Drug Enforcement Administration and other administrations of the Department of Transportation on training materials and publications in support of the prevention and response missions of the division.

Through a multi-task reimbursable agreement with the Department of Energy's Argonne National Laboratory, RSPA is managing approximately $700,000 in contracts for FY 1989 and $240,000 for FY 1990. The scope of work supports the development of technical information for use by state and local government and industry in their emergency preparedness and prevention programs. Tasks include development of guidance on use of commodity flow and incident data, support for teleconferences and other training activities, technical support for revision of the Emergency Response Guidebook and revision of hazard analysis methods and scenario development for emergency planning.

Through FY 1989 reimbursable agreements with the Federal Emergency Management Agency, totalling approximately $160,000, RSPA supported the development of hazard assessment models by Arthur D. Little, the development of a public officials awareness programs and broadcast teleconferences for emergency responders.

Also in FY 1989, RSPA entered into a $120,000 reimbursable agreement with the Office of Personnel Management for the development of a video series on the Hazardous Materials Regulations, elements of effective state enforcement programs, investigative techniques, and an awareness overview for prosecutors and judges.

In FY 1990, RSPA funded the Transportation Systems Center $200,000 to provide production support on the series of 12 compliance and enforcement training modules for handoff to state enforcement agencies.

Additional contracts planned for FY 1990 include a video program on response to cargo tank incidents, and the development of a training module on using a checklist for protective action decisionmaking.

SENATOR LAUTENBERG: How many RSPA employees are in charge of managing these contracts?

ANSWER: The contracts and reimbursable agreements are managed by eight professional staff members knowledgeable in the subject areas.

SENATOR LAUTENBERG: Is this division understaffed given the size and number of these contracts?

ANSWER: Staffing is adequate to provide contract oversight for the contracts in place or contemplated.

SENATOR LAUTENBERG: Please describe in detail how the results of each of these contracts will be used by COHMED, state and local governmental officials, the emergency response community, and industry.

ANSWER: All projects funded by RSPA's Federal, State and Private Sector Initiatives Division contribute to accomplishment of the agency's core mission: to reduce the risk to persons and property of hazardous materials in transportation. To this end, RSPA is developing many training courses, information resources and technical guides to assist government personnel to enforce, and industry personnel to comply with, the Hazardous Materials Regulations. RSPA devotes equal attention to programs that assist with emergency planning and response to incidents. RSPA responds to approximately one half million requests for these materials every year.

Because so many technical disciplines are involved in managing hazardous materials programs, RSPA is putting increased attention on the specific performance requirements of the personnel for whom the programs are designed, including management, operational and technical personnel. As a general thrust of the past two years, RSPA has been reformatting training and technical information for use at the state and local level and in industry.

In FY 1989 - 1990, RSPA-funded projects addressed a wide range of concerns, including: overviews for management personnel on regulatory programs; consequences of incidents; availability of response resources; improved technical information for operational responders; practical techniques for quantifying commodity flow and risk; decision-making tools for use during emergencies to protect the public; and compliance and enforcement training courses in modular form.

Office of the Administrator

SENATOR LAUTENBERG: In recent years the size of RSPA's staff has increased and the scope and nature of RSPA's mission seems to have expanded. Has the Office of the Administrator been able to keep pace with the increase of its responsibilities?

ANSWER: The workload and responsibilities have indeed increased. Several steps have been taken to ameliorate the potential problems created by these demands.

- Program and administrative staff have increased support to the Administrator's office,
- Improved administrative procedures have enhanced our responsiveness to Departmental and outside requirements,
- The planned reorganization will improve communications and responsiveness,
- The planned reorganization establishes a Program and Policy Support Staff reporting directly to the Administrator which will provide support in the areas of policy review

and analysis, public affairs, and executive secretariat.

SENATOR LAUTENBERG: How does RSPA deal effectively with its personnel staffing, procurement and contract challenges?

ANSWER: Several recent actions have addressed these responsibilities:

- **Increasing reliance on a dedicated corps of employees to assume more responsibilities,**
- **Reestablishment of a Headquarters Contracts and Procurement Office will co-locate critical support functions with its Headquarters clientele,**
- **Personnel changes in the Office of Personnel which have made a significant impact on our ability to meet staffing requirements. Successful recruiting strategies include newspaper advertising and announcements with Federal and State safety and research/development organizations enabling the Agency to identify a larger pool of qualified candidates for hard-to-fill positions.**

SENATOR LAUTENBERG: How does the FY 1991 budget request reflect increasing demands on the Office of the Administrator?

ANSWER: The increasing safety emphasis in RSPA has affected all elements of the agency and has resulted in a request for staff increases in the highest priority areas, i.e. pipeline safety and hazardous materials safety. The reassignment of the Science Advisor position to the Office of the Administrator to establish a Deputy Administrator position, reflects a need for a strong Deputy to carry out significant line activities and to relieve the Administrator of certain administrative duties and organizational oversight activities.

APPLEGATE BILL

SENATOR LAUTENBERG: Representative Applegate has introduced H.R. 2584, legislation which provides for a computerized tracking system for hazardous materials shipments. Senator Metzenbaum has introduced a companion bill, S. 2318, in the Senate. What are your views on the tracking system proposed by these bills.

ANSWER: The Department will shortly be submitting a formal statement of its views on H.R. 2584, but it is possible to make a few general observations on the tracking system that would be required under the two bills.

Proponents claim that the DOT hazard warning system now in place will not work if the shipping papers are destroyed or the placard can't be read, as in the event of a vehicle fire. However, the Department has found no record of any hazardous materials transportation accident where lives could have been saved by a computer system such as that proposed in this bill. During 1988 and 1989, there were 27 deaths resulting from 16 accidents involving regulated shipments of hazardous materials. Every one of those 16 accidents involved a cargo tank motor vehicle and in all cases the event was over so quickly that cargo identification by emergency responders was not an issue.

The terminology used in the bills is misleading. The computer system they describe would not provide "real-time" tracking of shipments, merely 24-hour access to a data center which would maintain the equivalent of a DOT shipping paper _if_ the shipper complied fully and correctly with the requirement to file a manifest. RSPA estimates that the system would have to record 1.4 million manifests each day. Given a normal rate of typographical and/or transmission error, a certain amount of misreporting is inevitable. This is a critical problem. The reports are meant to be relied on during hazardous materials emergencies. Any error could expose emergency responders to life-threatening danger.

Proponents also claim the system is necessary to deal with emergencies involving cargoes sent out by shippers who failed to provide shipping papers or who misrepresented the hazardous nature of the cargo. Such shippers, however, are least likely to pay a fee and send a correct manifest to the data center.

The bills are not revenue-neutral. It has been argued that they would cost the government nothing because shippers' fees would fund both the computer system and the grants to states. But, as the Nation's single largest shipper of hazardous materials, the federal government would face outlays of millions of dollars for shipment fees; and would lose even more in revenues as billions of dollars in shippers' fees were made tax-deductible business expenses.

Because hazardous materials accidents are relatively infrequent (305 in 1989), it is doubtful that a system requiring the transmission of trillions of datapoints and costing billions of dollars could be shown to be cost-effective. If more information is needed than the regulations now require, other technologies may be more effective and efficient, e.g. real-time satellite tracking technology.

TRANSPORTATION OF FOOD (BACKHAULING)

SENATOR LAUTENBERG: Legislation has passed the House and is moving through the Senate that would give DOT the lead responsibility for issuing regulations to prohibit the backhaul of municipal waste and mixing loads in cargo tanks. DOT has expressed the view that it is not responsible for maintaining the safety of the nation's food supply. What are your views on this issue?

ANSWER: We certainly share the Congress' concerns over maintaining a wholesome and safe food supply in this country. The issue is whether the responsibility for achieving that goal should be assigned to an agency with no expertise, when other Federal agencies with trained inspectors in the field have been enforcing food safety standards for a long time.

While DOT has no trained inspection personnel to deal with food safety matters, the FDA and USDA have more than 7500 inspectors in the field enforcing food safety requirements. USDA inspectors examine 100% of the refrigerated trucks onto which meat and poultry are loaded.

Several agencies have statutory authority over various aspects of this issue. The Department of Transportation is responsible for issuing and enforcing regulations to ensure that commercial transport vehicles are operated and maintained in a safe manner and to further ensure that the transportation of hazardous materials is accomplished in a manner which reduces their risk to people and property. The Environmental Protection Agency is responsible for issuing and enforcing regulations to ensure the environmental sound disposal of solid and hazardous wastes.

The FDA and USDA currently have authority to regulate and inspect transport equipment as well as facilities involved in food processing and distribution. However, new legislation may be desirable to enable FDA and USDA to do a better job in ensuring food safety, e.g., authority to inspect records of carriers concerning prior use of vehicles.

The Department stands ready to work closely with these other agencies to develop a federal food safety program, but continues to believe that the leadership of such a program should be assigned to the agency with the broadest experience and expertise, the Food and Drug Administration.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

STATEMENT OF GEN. JERRY RALPH CURRY, ADMINISTRATOR

ACCOMPANIED BY:

JEFFREY MILLER, DEPUTY ADMINISTRATOR

ADELE DERBY, ASSOCIATE ADMINISTRATOR FOR TRAFFIC SAFETY PROGRAMS

MICHAEL FINKELSTEIN, ASSOCIATE ADMINISTRATOR FOR PLANS AND POLICY

HOWARD SMOLKIN, EXECUTIVE DIRECTOR

INTRODUCTION OF WITNESS

Senator **LAUTENBERG**. We are more than 5 minutes into the break, so we will try to make up for the lost time.

I welcome General Curry to the witness table. This is also your first appearance before this subcommittee, and we recognize that you have a long and distinguished career in the Army and have also been recognized as a concerned and civic-minded citizen of Washington, DC.

General Curry has taken on a critically important role in leading the Federal Government's efforts in maintaining and enhancing safety on our highways, a task that has been made more difficult by our reckless speed limit policy and America's simultaneous love affair with the automobile and the bottle.

I think it is fair to say that this administration is more committed to highway traffic safety than its predecessor, and I was pleased to see Secretary Skinner call a traffic safety summit that just concluded this week in Chicago. The summit included law enforcement officers from all over the country, and I am going to be asking General Curry to update us on the results of that conference and tell us how it is going to influence NHTSA's agenda in the future.

You are to be commended for a recent flurry of rulemakings that have come out of this agency, some of which have been stagnating for many years. We would like to pursue and encourage NHTSA's apparent new commitment toward making some critically important rulemaking in the safety area.

We will also be updating our understanding of the effect of the 65-mile-an-hour speed limit and the progress we are making in controlling drunk driving in this country.

Once again, I welcome you, General Curry, before the subcommittee and ask you for an opening statement. If you can summarize it, the whole statement will be included in the record so that we have everything there.

STATEMENT OF JERRY CURRY

General CURRY. Mr. Chairman, thank you, sir, very much for inviting me today. It is my first appearance. I am privileged and honored to be here this morning.

I have brought with me a few people who I think you already know, but let me mention them to you. Jeff Miller is the deputy in my agency. To his left is Adele Derby. She runs our Traffic Safety Program.

Senator LAUTENBERG. We all know each other fairly well.

General CURRY. Mike Finkelstein is in a new office, Plans and Policy; and Howard Smolkin, who is our executive director and really the chief of staff.

TRAFFIC SAFETY SUMMIT

I know, sir, that you are pressed for time, so I am going to condense my statement a little more than I would have and mention just a few things to you. But before I do, let me brief you just for a few minutes on the traffic safety summit that you mentioned.

We did have it in Chicago. We had about 250 people there. About 150 of those were law enforcement officers from all 50 States and from other places such as Puerto Rico, for example. Secretary Skinner was there for the entire conference. Deputy Secretary Chao was there, and in addition the Secretary brought out with him many of his Assistant Secretaries.

There were four major areas covered: drunk and drugged driving, occupant protection, speed, and commercial motor vehicle safety. The latter included things like railroad grade crossings and hazardous cargo.

SUMMIT RECOMMENDATIONS

And I will mention about a half dozen of their recommendations from the conference so that you can get a flavor of what was recommended to the Federal Government. They recommended that we encourage all States to pass legislation for belt use, alcohol per se laws, and motorcycle helmet laws.

They recommended that we all, including them but not primarily them, increase awareness among police, judiciary, and lawmakers, and they pointed out that until you can get a policeman to wear his safety belt the likelihood of his writing up someone for not wearing one is not very great.

They also mentioned that some of the Federal prosecutors and judges do not know what the latest feeling is or the latest technological developments are in such things as speed enforcement, for example. And that we were probably—and I am talking about the whole community—remiss in not making an effort to brief them so they know what they are facing when a case comes into court. They felt we had not done that.

The ABA was present and they would like to work with us to update their people.

INCENTIVE GRANTS

They also mentioned to us, sir, that we should target more financial support and resources. They liked the idea of incentives rather than sanctions. One particularly that interests you is the 55-mile-per-hour and the 65-mile-per-hour speed limit difference. They said that to have sanctions at 55 miles an hour and not to have them on roads at 65 miles an hour seemed inconsistent, and they recommended that we drop the sanctions. They would like not to have them at 55 or 65 miles per hour.

DRUG TRAINING

The participants mentioned that we should provide increased training, especially for drug recognition. The Drug Recognition Expert Program that my organization funds develops and markets new technologies, such as the photoradar tests that we are running on the beltway in Maryland and Virginia. The test results will determine whether photoradar is something that should be done nationwide.

The participants feel that we should work harder to get more of the private sector involved, and we are doing that; and that we should pool resources, local, State, and Federal, so that we work all together as a cohesive team.

COMPREHENSIVE PROGRAMS

The last suggestion was that we should take a comprehensive approach to traffic safety. Specifically, they were saying, that when you look at a State that is failing to do something that you also should consider that the State may have a fatality rate that is the lowest in the Nation, and that State should not be penalized. You should look at the total overall program.

AGENCY PLAN

We will be publishing a record of that summit, with all of the comments, within 30 days, and then we will include the most promising strategies in NHTSA's 3-year plan. The Department of Transportation then will come up with an action plan for those items that are broader than my agency.

PREPARED STATEMENT

Sir, that is essentially the background. Perhaps rather than go through the rest of my statement, I should stop here and just go to questions.

Senator Lautenberg. I appreciate that, and again the full statement will be incorporated into the record.

[The statement follows:]

Statement of Jerry Ralph Curry

Mr. Chairman and members of the Subcommittee: I am pleased to appear before you today to present the National Highway Traffic Safety Administration's (NHTSA) budget request for fiscal year 1991. Present at the witness table to assist in responding to your questions are Jeffrey Miller, Deputy Administrator, and Michael Finkelstein, Associate Administrator for Plans and Policy.

I am prepared to respond to your questions about our program and the resources requested to support it. To provide a context, I would first like to present our goals for the 1990–1991 period, and how NHTSA will achieve its statutory mission within the framework of the administration's National Transportation Policy. The new policy emphasizes improving safety on our highways, and establishes our safety agenda for the future. Today, I also want to highlight the advances we have made that are demonstrated in a number of safety trends, and to briefly discuss major decisions made by the agency since my confirmation last November.

A RECORD LOW IN THE HIGHWAY DEATH RATE

The administration's transportation policy charges us with reducing traffic fatalities and injuries, and embodies the President's goal of reducing the death rate to not more than 2.2 fatalities per 100 million miles of vehicle travel by 1992. I am pleased to report that preliminary data for 1989 indicate we have already achieved the goal. This is the lowest U.S. traffic fatality rate on record.

Preliminary figures show that 45,500 people lost their lives in motor vehicle crashes on public roads in 1989. This is down from 47,093 in 1988, even though total travel increased. The fatality rate fell from 3.3 deaths per 100 million miles in 1980 to 2.2 last year. This was a one-third overall reduction in a decade.

This lower rate reflects, among other things, national progress against alcohol-impaired driving, increasing use of safety belts, improvements in vehicle safety performance, and a growing awareness that traffic casualties are a major public health problem.

Even though the President's overall goal has been met, highway casualties are still too high, and continue to be an endemic national tragedy. NHTSA will continue its work to reduce this loss. Our strategy includes both short and long-term projects. I would like to discuss some of our initiatives, to present some of our important achievements, and to answer your questions.

THE NATIONAL TRANSPORTATION POLICY AND NHTSA'S PLANS

Less than a month ago, the President and the Secretary of Transportation Samuel Skinner presented the National Transportation Policy to the nation. In parallel with the formulation of that policy, we developed a priority plan for NHTSA. The plan will be an evolving guideline for agency action over the next several years. Our plan includes vehicle rulemaking initiatives such as improved side-impact protection for passenger cars, light trucks, and vans; automatic crash protection and other improvements in light truck and van safety; and packages of improvements for heavy trucks, school buses, and child safety seats.

The plan also has major initiatives and goals for our traffic safety programs. A cornerstone of these programs is the Traffic Safety Summit just concluded, at which we addressed a number of important issues concerning the law enforcement community. Next year, we plan to address many of these issues with the judicial community in a similar conference.

Our agency plan calls for initiatives to promote state laws and programs to increase safety belt use, motorcycle helmet use, and to ensure that drunk and drugged drivers are dealt with quickly and effectively. We will continue major media programs on belt use, drunk driving, and the effect of speeding on safety. We are planning major initiatives in cooperation with private entities including insurance companies, the sports industry, the Ad Council, and employers. The plan envisions technical assistance in areas such as safety belt use survey techniques, consistency and accuracy in police crash investigation and reporting, automation of the National Driver Register, drunk and drugged driving law enforcement, speed enforcement, and emergency medical systems.

Finally, we will continue to initiate a number of research activities to foster new technologies, technology transfer, and innovation. These include improvements in our crash data collection and analysis, publication of a new research journal and a compendium of traffic safety training materials and opportunities, evaluations of major programs, and the conduct of our traditional Lifesavers and Experimental Safety Vehicle Conferences.

STATE, COMMUNITY, AND CITIZEN CONTRIBUTIONS

Mr. Chairman, I am committed to the idea that program officials at the Federal level can benefit greatly from the ideas and experiences of the people who manage safety programs at the State and community level. In developing the National Transportation Policy, the Department reached beyond Washington in order to gather ideas from citizens and officials around the country. I plan to employ this same strategy in formulating my agency's program. I will from time to time conduct summits of key traffic safety officials and interested citizens. These will give us an opportunity to focus in on particularly difficult problems, and employ many ideas from the field in our own program at the Federal level.

Our first national summit, sponsored by Secretary Skinner in Chicago, concluded successfully yesterday. It was attended by law enforcement administrators from many States, counties, and municipal agencies. We searched for new strategies to deter driver impairment, enforce laws against speeding, increase occupant protection and improve commercial vehicle safety. NHTSA and FHWA will mold these ideas into a national program on how we can support States in introducing new measures to improve safety.

OCCUPANT CRASH PROTECTION

Last September was a milestone for better crash protection for people in passenger cars. We completed the phase-in of the automatic protection requirements in standard 208. Over two million cars with air bags are already on the road: 2.9 million are being built during this model year. We expect during 1993 to see over 15 million cars with air bags on the road, including sales of 5–6 million model year 1993 cars with air bags. We are continuing our efforts to increase public understanding of these new protective systems. We also are encouraging motorists to use their automatic belts, including auxiliary lap belts in some systems, and continue using available manual belts where air bags are provided.

Safety belt use has reached 46 percent nationally, more than triple the rate a decade ago. But the U.S. rate remains well below the very high use levels (80–90 percent) reported by Canada, Sweden and other foreign countries. Greater use of manual and automatic belts continues to be the fastest and most cost-effective means of improving occupant protection on the road.

Thirty-four States and the District currently have safety belt use laws, covering over 85 percent of the U.S. population. While progress in enacting new laws has slowed somewhat in recent years, we are pleased to report that Mississippi enacted a belt use law on March 20, and it is now in effect. Several other States are considering belt bills this year, and those efforts will continue next year as well. Our 1991 request includes funding to provide technical assistance to support passage of more belt laws, and to help resist repeal efforts. Our program also targets high-risk segments of the population who rarely use belts. Moreover, we plan to actively support State enforcement and education. And, we are continuing our successful public service ad campaign featuring "Vince and Larry."

On January 9, 1990, NHTSA issued a rulemaking notice to extend current requirements for automatic occupant protection to light trucks, vans, multipurpose passenger vehicles, and small buses. The growth in popularity of these vehicles has been phenomenal. Record-breaking sales since 1985 have added 5 million vehicles to our roads each year, which are being used increasingly as alternatives to passenger cars.

Unfortunately, light truck deaths have also risen, from 6,500 in 1984 to over 8,300 in 1988. At this rate, occupant deaths in light trucks and vans will exceed 10,000 by 1994. While the overall safety record of these vehicles, on a rate basis, is quite similar to passenger cars, we believe they will benefit from the addition of automatic protection requirements. Extending automatic protection to light trucks could save as many as 2,000 lives per year, and prevent thousands of serious and moderate injuries. I expect that most light truck manufacturers will support this proposal, although we have had a number of important comments on details of the implementation from them. I expect to reach a decision on a final rule this fall.

MOTORCYCLE SAFETY

The 1991 program will support the Department's strong commitment to an additional area of occupant protection—State helmet laws for all motorcycle riders, regardless of age. NHTSA is starting a new initiative to work directly with States to encourage enactment of helmet laws. The number of States with helmet laws covering riders of all ages is increasing, and now stands at 23 with the new law in Washington State. But the majority of States still do not have such laws. The stakes are high—in recent years, motorcycle riders have constituted 8–10 percent of vehicle occupant deaths. Crash fatality data indicate that head trauma normally accounts for 70 percent of motorcycle rider deaths.

Equally disturbing, States report that traumatically-injured riders often neglect to carry adequate medical insurance. The expense of medical and rehabilitation treatment, often life-long, all too often falls upon society. This fact overshadows the so-called personal freedom arguments espoused by many opponents of usage laws. Responsible people recognize that helmet use and helmet laws are the best solution. States with helmet use laws report usage rates over 90 percent, twice the rate in States without laws. Consequently, we will mount a strong technical assistance effort to help more States pass helmet laws.

We also recognize there are other important aspects of motorcycle safety including rider training, classified licensing, and redoubling efforts to combat riding while impaired. Our technical assistance programs will address these objectives as well.

OTHER MOTOR VEHICLE SAFETY RULEMAKING

During my confirmation, I promised that NHTSA would accelerate rulemaking for new and upgraded motor vehicle safety standards when there is convincing evidence they could save lives and prevent injuries. In that vein, we have already completed rulemaking to require head restraints and rear-seat lap/shoulder belts, and we have initiated rulemaking for side-door strength, roof-crush resistance, and automatic protection. In concert with the Committee's guidance, our 1991 budget will continue a multi-year research program to address other light truck safety issues, such as the potential for rollover during sudden maneuvers, and increased occupant crash protection.

We are completing the upgrade of side-impact protection for passenger car occupants. After years of research and study, we are moving rapidly toward a dynamic standard—and the U.S. will be the first Nation in the world to do so. Last-minute tests of alternative dummies are nearing completion. Since side crashes cause about 8,000 deaths annually, this rulemaking will substantially reduce casualties in this crash mode.

A series of rulemaking actions is underway to improve school bus safety. An advance notice on crossview mirrors and a proposal to require school bus stop arms were issued, and I expect to issue additional regulatory notices later this year. Rulemaking action is in process on emergency exits, seating material flammability, fuel system integrity, and bus body strength. We have two programs underway to assist State efforts to improve school bus safety. Our guidelines on effective pupil transportation safety are being updated, and we have set aside $4.5 million from highway safety grants for special State school bus programs. All 50 States have applied for these funds to implement projects endorsed in the National Academy of Sciences' 1989 report on school bus safety.

As reported last year, we are continuing a landmark demonstration and test of a new generation of antilock brakes on heavy truck-trailers engaged in commercial service. The goal is to determine the effectiveness of antilock brakes in reducing loss-of-control crashes, and to monitor the reliability and maintainability of ABS systems in real-world service. By July 1989, 200 test truck-trailers had been placed in service in 17 commercial fleets. On-board data recorders permit us to monitor their performance.

To date, anti-lock systems in the test have functioned as designed and no system failures have occurred. Several test drivers have reported that ABS helped them avoid crashes in unexpected situations calling for emergency stops. This year, we will add 50 trailers equipped with antilock brake systems to the fleet evaluation, and these will be monitored in similar fashion. As required by law, we will submit a report on their progress by January 31, 1991. We expect to complete evaluation of the tractors in late 1991 and the trailers in early 1993. Test results so far encourage us to believe that anti-lock brakes will be in widespread use on large trucks later this decade.

VEHICLE SAFETY ENFORCEMENT ACTIVITIES

Our enforcement program continues to monitor the current fleet of cars, trucks and other vehicles, through safety defect investigation and testing for compliance with vehicle safety standards. In 1989, NHTSA set an all-time record by opening 213 defect investigations. Approximately 6.8 million vehicles were recalled, 77 percent (5.3 million vehicles) of which were influenced by agency actions. Our goal remains to reduce the time needed for investigations, without undercutting investigation quality, and to improve the completion rate on recalls. We are also scheduling all standards for compliance tests on a regular basis, in line with recommendations by the General Accounting Office.

We also initiated 30 compliance test programs, and focused one-third of our testing funds on two of our most important rules: automatic crash protection in passenger cars (Standard 208) and child safety seats (Standard 213). With respect to child safety seats, the investigations and recall programs have been thorough, but the response rate (22%) is too low. Several alternatives are under consideration including child safety seat registration as a mechanism to enhance recall notifications and to improve the response rate. The odometer fraud program remains vigorous, leading to 41 investigations in 18 States, and referral of 15 large-scale cases to the Justice Department for criminal prosecution.

ALCOHOL AND DRUGS

The fight against drunk and drugged driving was highlighted by the President when he proclaimed December 10–16, 1989, as "National Drunk and Drugged Driving Awareness Week", and remains at the heart of NHTSA's program in 1991. We appreciate the support that Congress has provided for our efforts in this area. We are continuing the most effective measures in our programs, such as TEAM (Techniques for Effective Alcohol Management) and the Drug Evaluation and Classification (DEC) program. One of the President's charges to my agency is to reduce the incidence of impaired driving on the highways. We believe progress has been made, but nearly half of all traffic deaths are still associated with impairment.

Our ultimate objective is to provide technical assistance to strengthen police enforcement against impaired driving, public education programs and effective judicial processing of offenders. A strong research basis will produce a broad array of effective measures to address all aspects of impaired driving. For example, police enforcement cannot solve the entire problem. Ultimately, the solution rests with a change in society's views and behaviors. Thus, research will focus on gaining a better understanding of society's views about drinking and then driving. The goal is to identify strategies that states can integrate into their alcohol safety programs.

Prompt license action by states is an essential part of our strategy to remove drivers impaired by alcohol and other drugs from the highway. Therefore, we strongly endorse state enactment of laws to permit administrative license suspension for drivers charged with driving under the influence. At present, 28 States and the District of Columbia have adopted some type of administrative suspension law, and that number is growing each year.

The request provides funds for States eligible for Section 408 alcohol safety incentives. Since its inception in 1984, 23 States have qualified, and we expect that number will continue to grow in 1990–1991, as more states enact administrative per se laws. As a group, they have outpaced other States in reducing the proportion of alcohol involvement in fatal crashes. They have also implemented most of the recommendations of the Presidential Commission on Drunk Driving. Grants are being used by States to increase police enforcement and sobriety checkpoints, to streamline court processing of impaired drivers, and to fund local alcohol task forces.

The new Section 410 incentives are designed to strengthen efforts against impaired drivers. These incentives are now available for State application, and we will work with states interested in becoming eligible. Although none has qualified yet, three States have indicated they will seek new laws during 1990 in order to become eligible. One State has indicated that it may be eligible now. A working session on Section 410 is scheduled during the national Lifesavers Conference later this month in San Diego. This will give us an opportunity to promote Section 410, and work directly with each State.

INTELLIGENT VEHICLE/HIGHWAY SYSTEMS

The National Transportation Policy urges renewed attention to new technology and innovation, and recommends increased Federal support for transportation research, including the Intelligent Vehicle/Highway Systems (IVHS) initiative. Our budget proposal is responsive to this goal. We are cooperating with FHWA in developing an IVHS program.

IVHS will serve as an umbrella effort encompassing interdependent vehicle and road technologies to improve safety, and reduce congestion and air pollution. Similar efforts by Europe and Japan are ahead of the U.S., and we must become competitive in this crucial new area of automotive innovation. The administration's transportation policy calls for a vigorous program. The 1991 request supports advanced vehicle control systems focused on human factors and crash avoidance that are applicable to the IVHS initiative. Complementing the NHTSA effort is FHWA's funding request for support to the driver-based simulator program in fiscal year 1991.

CRASH DATA COLLECTION AND ANALYSIS

Improved highway data collection and dissemination for government and private use comprise an integral part of the new policy. Our request provides resources to upgrade the crash and injury data program, and to help States improve their respective data systems. Dissemination of crash and injury data assists States and private sector organizations in mounting more effective safety measures.

THE BUDGET REQUEST

Mr. Chairman, I would like to conclude by briefly summarizing our budget request to the committee. Although I have identified many new program initiatives, our total budget proposes only a modest five percent increase above the fiscal year 1990 level. Recognizing the budget realities facing our nation, we believe this budget request is both reasonable and responsible. In 1991, we are seeking total program funding of $242.9 million. This consists of $117.3 million in the Operations and Research appropriation, and obligation limitations of $125.6 million for Highway Traffic Safety Grants to the States.

Within the request, $69.1 million will support ongoing contract programs, including $8.0 million for the new Section 410 Drunk Driving Prevention incentives. Funding for contract support also will permit us to expand or accelerate our efforts in a number of critical safety areas, including vehicle rulemaking for light trucks and upgraded occupant protection in passenger cars. This also will support efforts to increase safety belt and child seat usage and educate the public about new automatic protection systems.

This funding will permit us to enlarge our attack on alcohol and other drug impairment, including expansion of the successful Drug Evaluation and Classification (DEC) program to 50 metropolitan areas in 30 states by the end of fiscal year 1991. The DEC program represents the agency's major support to the emphasis on drugs in the new transportation policy and in the administration's continuing war on drug use.

These funds will permit the agency to continue support to police enforcement of traffic laws, especially against impaired driving and exceeding posted speed limits. And, we will be able to continue development of a new Advanced Technology Program that exploits electronics, computers, information communication and driver simulators to enhance driver and vehicle crash avoidance capability. Finally, funds are also proposed to continue the expansion and automation of the National Driver Register to modernize and facilitate fast exchange of problem driver records between all States.

Our budget request also provides funding for nine new staff positions in critically important areas. Two positions will allow the agency to accelerate vehicle safety rulemaking, especially to improve safety for light trucks and vans. This will help me keep my commitments to reduce the average time for vehicle rulemaking to 18 months. The remaining seven positions will be used to manage key programs such as the DEC drug effort, and to assist States in using Section 402 formula grants effectively in crucial areas such as occupant protection, alcohol/drugs and emergency medical services.

The request of $125.6 million for an obligation limitation under the Highway Traffic Safety Grants Appropriation is the same as fiscal year 1990 and includes $114.7 million for Safety Formula Grants (Section 402) and $11 million for Alcohol Safety Incentive Grants (Section 408). The amounts requested for Section 402 and Section 408 will provide States and communities with needed grants to implement effective measures for alcohol, drugs, speeding, trauma care and emergency medical services, and public acceptance and use of occupant protection systems, including safety belts, child seats, airbags and motorcycle helmets.

This concludes my statement, Mr. Chairman. I will be pleased to respond to any questions you may have concerning our budget request and the programs it supports.

MOTORIST SPEEDING

Senator LAUTENBERG. I am curious about something, this speed limit issue. You take a small State, a small but crowded State like mine. The highways are very, very busy. New Jersey is the most densely populated State in the country and, peculiar to our location, happens to be a byway for travel between north and south along our eastern seaboard.

I travel those roads a lot and one draws something from personal experience. The one thing that we know is that speed is dangerous, and the results that we discuss soon I think will establish that.

SPEED RADAR DETECTORS

I am curious about one thing. During this summit was there any discussion at all about devices permitted to outwit the police? It just strikes me as an anomaly that here we have a business, a flourishing business, that says, "Do not pay attention to the law," because that is what it amounts to. It amounts to encouraging our people to try to beat the law, instead of recognizing that there is a reason for its existence. Has that been discussed at all?

General CURRY. It was discussed at great length. A couple of things were very obvious when we attacked that subject, and that is, contrary to all the things that I have heard, the rationalizations used, you only buy things like fuzzbusters, radar detectors, for one reason, and that is so you can detect wherever the speed radar is and you can slow down and not get a ticket.

Senator LAUTENBERG. And pick right up again.

ANTIRADAR COUNTERMEASURES

General CURRY. And then go right back up again when you get beyond it.

They discussed several things, such as drone radar, where you set up boxes by themselves. There is no police car anywhere, and you set them up say every 10 miles. The fuzzbuster is activated every 10 miles and the driver is constantly slowing down and speeding up, and you do not have the intensive personnel effort along with that. That was one of the things discussed.

Of course, they feel that we should legislate banning fuzzbusters and we should ban them first in commercial vehicles. They are talking about trucks, buses, that sort of thing, and then at some later time they would like us to back that into passenger cars.

But there was extensive discussion of it. The police are very upset about it, by the way, emotionally upset.

Senator LAUTENBERG. By the use of these?

General CURRY. Yes; the use of these devices to detect their radar.

Senator LAUTENBERG. I would think so. I mean, it just exacerbates the risk of their jobs, trying to do the things that they are required to do, while at the same time taking the risk of constantly being at high speeds themselves.

You know, I have never discussed this subject with anybody in terms of whether or not a national law ought to be developed. I guess that would really stir up a hornet's nest.

General CURRY. Yes, sir; I think it would.

65-MILE-PER-HOUR IMPACT DATA

Senator LAUTENBERG. It would be interesting.

General Curry, at last year's hearing we discussed the issue of the 65-mile-per-hour speed limit. At that time NHTSA only had 1 full year of data to report the effects of the higher limits, and your agency has now analyzed a second full year of data and reported it to the committee.

Would you summarize for us, please, what the data reveal regarding the effect of the increase to 65 miles per hour on highway fatalities?

General **CURRY**. I would like to respond to it in two ways. One is that that subject was under great discussion at the traffic summit. The law enforcement officers went at it at great length.

As you know, each State is different, has a different experience, different sets of data, some better than others, some not as good as others. The feeling across the board at the summit among the law enforcement officers was that we still need a little more time to make sense out of what all of it meant.

At my agency we have just about completed our work in terms of analyzing what we think has happened. A couple of things are very obvious. One is that the speed limits have gone up and there has clearly been an increase in fatalities on rural roads.

But, unfortunately, I am unable to give you a definitive answer to your question at this time and tell you exactly what the data mean.

FATALITY INCREASES

Senator **LAUTENBERG**. Well, we have your report. It says in 40 States that posted their rural interstates at 65 miles per hour, fatalities on these highways increased by 33 percent between 1986 and 1988. In those same States in the same period, fatalities on noninterstates did not rise at all. That tells us something fairly definitive.

General **CURRY**. It is very clear that on those rural interstates that, there is no question about it, fatalities have gone up.

Senator **LAUTENBERG**. We will put this in the record, because it concludes fairly definitely, I think, that speed kills.

[The information follows:]

FINDINGS OF DOT'S REPORT ON EFFECT OF 65 MPH

In the 40 states that post their rural interstates at 65 MPH, fatalities on rural interstates increased by 33 percent between 1986 and 1988. In those same states in the same period, fatalities on non-interstates did not rise at all.

The fatality rate on rural interstates rose 17 percent in those states that posted 65 MPH in 1987. In those same states, the fatality rate on urban interstates and non-interstates actually declined by 7 percent.

Fatalities on the rural interstates represent only 5 or 6 percent of total highway fatalities, yet between 1986, when the new speed limit took effect, and 1988, 71 percent of all the increased fatalities took place on rural interstates. If you just look at those states that kept their speed limits at 55 MPH, only 6 percent of the increased fatalities took place on rural interstates.

Almost half of the states that increased the speed limit on rural interstates to 65 MPH saw the number of fatalities on rural interstates increase by more than 50 percent. Seventy percent of those states saw the number of fatalities increase more than 25 percent.

The report concluded that "the pattern of state fatality increases suggests that the effect of the speed limit increase was widespread (not limited to a few states with bad experiences).

Between 1986 and 1988, fatalities on rural interstates increased 31 percent nationwide—21 percent after accounting for travel increases.

Three times as many cars were traveling faster than 70 MPH in 1988 than in 1986. Eleven times as many cars were traveling faster than 80 MPH.

Note.—89 percent of the nation's rural interstates in 40 states are posted at 65 MPH.

The ten states that have stayed at 55 MPH: Alaska, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island; also, the District of Columbia.

FATALITY DATA

Senator **Lautenberg**. I am curious. Who at this conference made the claim that we did not have enough information?

General **Curry**. Across the board, the law enforcement officers, all 50 States almost without exception.

Senator **Lautenberg**. They saw this information?

General **Curry**. They saw the data. They said what you said earlier——

Senator **Lautenberg**. It did not impress them?

General **Curry**. No; they were impressed. They said, clearly the fatalities have gone up in some, but at the same time you are looking at two or three other things. One is the number of cars on the roads is up; the number of licensed drivers on the road is up.

FATALITY RATES

The fatality rate nationwide last year dropped from 2.3 to 2.2. That is from 1988 to 1989. So we had a drop in the fatality rate nationwide, per 100 million miles driven. At the same time, there was an increase on the 65-mile-per-hour roads. And their point was, rather than draw a conclusion today just based on that increase, let us see if we cannot take a little longer, and try to analyze and tell us what all this means in some kind of a context.

Senator **Lautenberg**. I assume that in the information that you have developed you account for the increase in volume of traffic and it is still up 21 percent. I do not know how more conclusive these things have to be.

We have done some of our own calculations with the same raw data that NHTSA provided in its report and we will share with you some of the findings. As you know, roughly 89 percent of the rural interstate system is now posted at 65 miles per hour. Fatalities on the rural interstates represent only 5 or 6 percent of the total highway fatalities. Yet, between 1986 when the new speed limit took effect and 1988, 71 percent of all of the increased fatalities took place on rural interstates.

If you look at those States that kept the speed limit to 55 miles per hour, only 6 percent of the increased fatalities took place on rural interstates. Almost one-half the States that increased the speed limit on rural interstates to 65 miles per hour saw the number of fatalities on those rural interstates increase by more than 50 percent.

Seventy percent of the States that increased their speed limits to 65 miles per hour saw the fatalities on their rural interstates increase by 25 percent or more.

Your report says that your chances of dying on a rural interstate increased by 18 percent in those States which increased their speed limits back in 1986, but for those that did not, the rate did not increase one bit.

Last year, Mr. Smolkin shied away from drawing many conclusions from this data, saying that 1 year of data is not conclusive. Now we have 2 years of data and the numbers keep getting worse.

General, you are in charge. What conclusions do you draw from this?

FATALITY CAUSATION FACTORS

General CURRY. As you probably have guessed, I really do not have a problem drawing the conclusions. I cannot just ignore what the law enforcement officers at the summit have told me.

Senator LAUTENBERG. What did they tell you?

General CURRY. They have told me that they want us to take a look at some other factors involved. And we have done analysis——

Senator LAUTENBERG. But they have not told you that our information is incorrect. They have not challenged it. They have not produced countervailing data.

General CURRY. No; and I do not challenge it at all either. I can say to you that we will have a report. We are in the final stages of reviewing the effects of the 65-mile-per-hour speed limit on rural interstate highways, as directed by Congress in 1987. We will be completing this review shortly.

We will submit a full report to Congress on the effects of the increased speed limits, and our views on the appropriate speed limits will be shaped by our findings in the study. And I can promise that to you and that we will have it to you this calendar year.

Senator LAUTENBERG. Well, it is no secret, the record is public, that I opposed the increase at that time, and I am still opposed to it. In fact, I have a bill pending now that repeals it.

General CURRY. Surely.

55-MILE-PER-HOUR SPEED LIMIT

Senator LAUTENBERG. What is NHTSA's position on moving the national speed limit, maximum speed, back to 55, or do you still want to wait for massaging of the data?

General CURRY. I do not believe that in my position as Administrator of the agency I can have any position other than a lower speed limit, and therefore without question I support the 55-mile-per-hour speed limit. I think it is a good idea. I understand the States' rights implications, however, and I recognize how difficult that is.

But I do not think as the Administrator I could take any position other than that position.

Senator LAUTENBERG. I totally agree, as you already understood.

During Secretary Skinner's confirmation before the Environment Committee, on which I sit, I asked the Secretary the following:

> You say that the States are best equipped to set the limits. Is there any point at which you would say, hey, wait a second, we are seeing too much destruction, too many deaths on the highways that maybe follows the increase in the speed limit?

The Secretary was forthright and responded:

Yes, absolutely. If there comes a point in time when the statistics are clear and being ignored, that the States are ignoring it and they are doing it in a way that has a significant disregard for the safety of citizens, I think it is time to reassess.

Have you had a chance to share this information with Secretary Skinner?

General CURRY. We have talked about it. I share, by the way, his opinion and his views. I think that part of the final analysis of this data that we are developing ought to be addressed to that question: Have we come to the time when my agency should recommend to the Secretary that he consider at the national level doing something in that direction?

And sir, if it turns out to be that way, I will not hesitate to do it.

Senator LAUTENBERG. So a reassessment period is upon us?

General CURRY. Yes, sir.

STATE SPEED LIMIT DECISIONS

Senator LAUTENBERG. Let me ask you. You know the argument that is made that says the States should decide. Would you support letting individual States decide whether or not an automobile is safe?

General CURRY. No; we have not, as you know, done that, and I have to answer the question very clearly. The answer is absolutely not.

Senator LAUTENBERG. Effective seatbelts, effective child seats—we mandate these policies.

General CURRY. Seatbelts in airplanes, all of that.

Senator LAUTENBERG. We mandate these policies at the national level, because we recognize it is our responsibility, national responsibility, to save lives. So we place ourselves in the position of not just going along with the States' rights thing simply because of the structure of it.

New Jersey has a peculiar seatbelt law. I do not know whether you are aware of it, but you cannot get stopped for not having a seatbelt on. But if you commit an infraction, if you are in an accident and you are not wearing it, in other words if you are deceased and you are lying there out in the road with your seatbelt off, why you would get a ticket.

It is a little silly. You have to be in an accident before you get penalized. I am hoping that one of these days they will change that in my own State.

It is true, is it not, that the wider the variation in speed between vehicles on the same road, the greater the likelihood of accidents and fatalities? Is that true?

[General Curry nods affirmatively.]

65-MILE-PER-HOUR IMPACT STUDY

Senator LAUTENBERG. One of the findings of your study on the impacts of 65 is a dramatic increase in the number of people traveling at very high speeds. Three times as many vehicles were traveling faster than 70 miles an hour in the fall of 1988 versus the fall of 1986. Eleven times as many vehicles were traveling faster than 80 miles an hour in the fall of 1988 versus the fall of 1986.

What do these data tell us regarding the likelihood of accidents and fatalities on the highways? What does it tell us about the adequacy of States' efforts to enforce the 65-mile-per-hour speed limit?

POLICE SPEED ENFORCEMENT

General CURRY. Let me just mention the first part that you commented on. It is true, New Jersey still has a secondary enforcement law. Many States do, but we are working very hard in our agency to try to get all States to go to primary enforcement laws so that you can pull over motorists and cite them for not wearing their seatbelt.

By the way, that is done with stringent enforcement in Hawaii. The result is they have about 80 percent belt use in their State, as opposed to about 46 percent nationwide.

There is no question about it, sir, that we are seeing the speed limit exceeded in many States, probably most States. And I think that is very unacceptable.

I also think that the current rage, it seems, in the automobile industry to advertise speed as a way of selling cars is wrong. It is in the wrong direction.

Right now my agency, for example, about 2 weeks ago wrote letters to Governors of five States, that have the 55-mile-per-hour speed limit. They have exceeded—do you have them there? Well, maybe I should not mention them. New Jersey is not among them.

Senator LAUTENBERG. Not among them?

55-MILE-PER-HOUR SANCTIONS

General CURRY. Not among them. But they have exceeded the 55-mile-per-hour speed limit average, and we have written them to tell them: You exceeded the speed limit and there are prices to be paid. As you know, with the law there are penalties and it is not a light penalty. It is in the millions of dollars for some States to do that.

So we are following up on that. At the summit we discussed at great length how to go about lowering the average speeds on roads nationwide. A lot of that discussion is much too long for here, but I would certainly like, if you would like me, to submit to you for the record some of the testimony on that subject that concerned not only that, but speed in general.

[The information follows:]

SPEED COMPLIANCE

The Federal Government must continuously reinforce the message that excessive speed is a serious contributor to death and injury on the highway. We must not only support effective enforcement of speed laws, but utilize opportunities to educate the public that excessive speed is as serious a violation of safe driving practices as running red lights or other traffic violations. The law enforcement community must be reminded that despite the need to deal with the problems of crime and drugs, effective traffic enforcement is a key element in preserving a safe community. To explore the most effective ways of addressing excessive speed and other traffic enforcement problems, the leadership of the Department met with law enforcement leaders at the Traffic Safety Summit. Major speed enforcement recommendations from the Summit are:

Replace the sanctions requirement of the 55 mph National Maximum Speed Limit (NMSL) with incentives. Police should be able to deploy personnel to reduce crashes and fatalities, not just directed at NMSL enforcement.

Conduct additional study on the effect of posted 65 mph speed limits on rural Interstate highways to determine the reasons for the trends in fatalities.

Ban the use of radar detectors through Federal legislation. Initially prohibit use of detectors by commercial vehicle drivers.

Seek authorization from the FCC to use drone radar to reduce the effectiveness of radar detectors.

Work with the Federal Government to change auto marketing that promotes speed and other unsafe driving practices.

Explore and test with Federal financial support, the use of new technology such as automatic speed measuring devices (i.e., photo radar) to enhance enforcement.

Develop effective highway safety public information and education programs and campaigns, and encourage increased use of this material, particularly in conjunction with enforcement efforts.

Increase the availability of traffic enforcement training.

We are currently assessing these measures to determine how the Department can play the best role in implementing them.

VEHICLE SPEEDS

Senator LAUTENBERG. It is really anomalous, because people, all of us, want to get there in a hurry. That is the nature of our society. And people do tend to be attracted to the fast cars, especially the young people.

General CURRY. Yes.

Senator LAUTENBERG. And then the doorbell rings at the wrong time of the night. Friends of mine in New Jersey have just lost a 14-year-old boy who was a passenger in a foreign high-speed car that was traveling, the police estimated, at speeds in excess of 130 miles an hour, and they could not negotiate a turn.

This youngster was burned to death because the car caught fire. He was the only one of three in the car to die. And the effect that that has on an entire community * * * he was a very bright, wonderful youngster.

General CURRY. By the way, that is such a tragedy. One of the things that they mentioned at the summit was, if you remember, a few years ago we pegged the odometers to 85 miles an hour. And their point was that it is no fun to be driving 110 miles per hour if you do not know you are driving 110 miles per hour. And that maybe we should look at putting the odometers back with a limit of only 85 miles an hour.

Senator LAUTENBERG. That is interesting.

General CURRY. Yes; so there was great interest in that subject of speed.

My organization, by the way, is now in the process of having a contract to get a major series of public service announcements on speed, and we will be airing those by the end of this year.

55-MILE-PER-HOUR SANCTIONS

Senator LAUTENBERG. You mentioned sanctions and incentives. We found out something looking at the legislative history in all kinds of areas. Now, I would like to be the nice guy and say, "OK, if you do the things that we believe are in the interest of your population, we will give you a grant." But, we found out, for instance, in the case of the 21-year-old drinking age, that the incentive programs were just not working. However, once we put the sanctions on and said we are going to take away some of your highway money, even the most reluctant in the final analysis caved in, when we extended the 21-year age drinking level beyond 2 years.

At first, some of the States were very cynical, looked at it, said, "Hell, this thing is going to sunset, so we will struggle through for a couple of years." And at first the law was written such that any penalties issued or imposed were recoverable. Nothing happened.

Well, today we have a 21 age limit across the country, and it took a heavy foot standing on people's toes, I can tell you, to get that in place. And I hope that we will continue to see it producing the kind of positive results that we have seen.

You already expressed yourself, General, I think, on the two-tiered treatment, where States that keep their speed limit at 55 miles per hour but have an enforcement problem can be penalized and those States that raise their speed limit cannot be penalized. Do you support repeal of this system that says sanctions go into effect that will expire at the end of this year? How do you feel about this?

General **Curry**. Are you talking about the 55-mile-per-hour sanctions?

Senator **Lautenberg**. Yes.

General **Curry**. I think we ought either to be consistent and apply them to both speed limits, 55 and 65 miles per hour, or I think we should repeal them or let them expire.

ALCOHOL FATALITIES

Senator **Lautenberg**. I want to discuss in your budget request the fact that NHTSA has established a goal for the end of the decade of no more than 8.5 alcohol-related fatalities per 100,000 population. That is going to require some significant progress each year for the rest of the decade.

Obviously, I commend you for your goal, but I want to be sure that you have the resources and the programs in place to reach it. What was the alcohol-related fatality rate in 1989?

General **Curry**. I am going to let Adele Derby, who, sir, runs our Traffic Safety Program, handle that question.

Ms. **Derby**. Michael Finkelstein has the data. Provide the data and I will describe the program.

Senator **Lautenberg**. Whoever has got the best data, please.

Ms. **Derby**. He has the data and I will talk to you about the program to fix it.

Mr. **Finkelstein**. Last year one-half of the fatalities that occurred involved alcohol. The fatality rate per 100 million vehicle miles traveled is 1.1.

Senator **Lautenberg**. It cannot be the same standard that I have here in front of me, that says 8.5 alcohol-related fatalities.

Mr. **Finkelstein**. That is per 100,000 people involved.

Senator **Lautenberg**. And your number?

Mr. **Finkelstein**. If you want the fatality rate based on vehicle miles traveled, then the rate is 1.1.

Senator **Lautenberg**. If that is the sensible yardstick for comparison, or is it? I mean, why is this goal using population?

ALCOHOL FATALITY RATES

Ms. **Derby**. I believe, Senator Lautenberg, that that was done for the health goals, and they quantified the goals for the health plan differently really than we do in the agency. We are using a measure of 1.1 deaths per 100 million miles traveled as where we are today, and what we want to get down to is one death per 100 million miles traveled in 1992.

Senator **Lautenberg**. So about a 9-percent decrease?

Ms. **Derby**. That is correct, 9 to 10 percent.

Senator **Lautenberg**. And what was it? Do you have that rate in an earlier year or an earlier period, so that we can get some sense of the direction we are headed?

Mr. **Finkelstein**. At the beginning of the eighties we had a total fatality rate at 3.3, which has dropped to 2.2. The alcohol rate, when it was 3.3, was slightly more than one-half. So we were looking at about 1.8. We have made a dramatic reduction in alcohol-related fatalities over the course of the eighties.

ALCOHOL SAFETY GOAL

Senator **Lautenberg**. And the goal established for the end of the decade using your model is what now?

Ms. **Derby**. What we have is a 3-year plan, which General Curry referred to, and our goal for that is to reduce those deaths to one per 100 million.

Senator **Lautenberg**. To one in 3 years?

Ms. **Derby**. Yes; that would be a 10-percent decline.

Senator **Lautenberg**. Do you have a longer range goal, talking 10 years away?

Ms. **Derby**. I do not think we have established that yet. Right now we are looking at the near term.

Senator **Lautenberg**. Do you have the organization in place to achieve that roughly 10 percent reduction that you are targeting?

ALCOHOL PROGRAMS

Ms. **Derby**. I think we have, with our budget request, and we have asked for seven positions in my part of the organization, traffic safety programs, which is the principal group that works to reduce the alcohol-related fatalities. And we have asked for a budget increase, and I think with both, we can do that.

Our priority programs are to increase high-visibility enforcement, to ensure swift and certain license suspensions, and to enforce the minimum drinking age laws. We have a series of, I think, impressive programs to do that.

Maybe most significant is our Drug Recognition Enforcement Program. When we put that in place, people not only are trained to recognize drugs, but as a precursor, to have sobriety field test training. So the officers then are well equipped to get on the highway and work to reduce this rate.

AGE 21 LAWS

Senator **Lautenberg**. Adele, let me ask you a question since you brought it up and it is a favorite subject of mine. What do you think—have you an assessment of the enforcement of the 21 drinking age?

Ms. **Derby**. Well, we are just really getting into that now. We are putting together some guidelines that we can distribute, both to law enforcement people and to bars. We are working with colleges.

I think we do not have a very effective program now, but we are working to improve that.

Senator **Lautenberg**. I hope we will continue to pursue that, because I frankly see what seems to me to be violations of it all the time, especially in recreational areas.

Ms. **Derby**. We have an interesting program to try to minimize the use of fraudulent identification, just to minimize the chances of people picking up 21-year-old identification passes.

Senator **Lautenberg**. The minimum drinking age laws reduce traffic fatalities involving drivers in affected age groups by 13 percent. NHTSA estimates that these laws saved 1,148 lives in 1988, and the growth in projected lives saved continues to be observable.

Every time I think about the frustrations of this job, I think about that.

Ms. **Derby**. Well, that is one of our three priority efforts in the alcohol area.

SECTION 408 INCENTIVES

Senator **Lautenberg**. It has been effective to a family that does not have to sit and mourn the loss of a youngster. To never know that pain is a relief that you just cannot understand, but it is worth doing.

General Curry, I would like to discuss the funding situation of the Section 408 Program. For many years we had extra money sitting in the 408 program, waiting for States to pass the necessary drunk driving statutes to qualify for the funding.

Now that a number of States have taken the steps of passing these laws, we may not have an adequate balance in the program to pay them all. What can you tell us about the adequacy of the funding in section 408 for this fiscal year?

General **Curry**. We were clearly caught flat-footed. There was not enough money, because it was not felt that many States would qualify. But we are looking now at California and Connecticut, California by itself could almost break the bank.

Those States were not anticipated. Florida, Maryland, and Vermont are expected to come in. The current amount of money that we have in fiscal year 1990 will not cover the need and we are going to have to do some things to pay them. Because remember, we have set these standards and we have said that if met, we in the Federal Government would meet them halfway and do some things.

And now we do not have money in the kitty to do that. We have got to come up with that. We did not fund it properly and we have to find ways of doing that.

Senator **Lautenberg**. That is good and bad news, obviously.

General **Curry**. Yes.

SECTION 408 SUPPLEMENTAL

Senator LAUTENBERG. You mentioned the States that have become eligible. How many new States do you think might become eligible? Was that the list that you called off?

General CURRY. No; we may end up with a total of 10 before the end of the year.

Senator LAUTENBERG. And it is the first time, is it not, that we are facing a potential shortfall of funds?

General CURRY. Yes.

Senator LAUTENBERG. So what do you do with applications that come in later this year if there is not sufficient funding in the program to honor them?

General CURRY. We have to ask for additional funding to do that.

Senator LAUTENBERG. Might this shortfall result in an interruption in funding for ongoing activities in these States?

General CURRY. I do not think that will happen. We will probably end up, if we did not get the funding, having to do a reduced amount in all the States. I would not like to do that.

Senator LAUTENBERG. Let me ask you the last question in this area, and that is, why has not the administration requested a supplemental for this year?

General CURRY. Why? I missed it, I am sorry.

Senator LAUTENBERG. Why has not the administration requested a supplemental appropriation for this year?

General CURRY. I am not sure where we are exactly on that, but I can tell you that that is being looked at right now.

SECTION 410 INCENTIVES

Senator LAUTENBERG. As you may know, I authored the Section 410 Program as an amendment to the Anti-Drug Abuse Act of 1988. We provided $4 million for that program in last year's appropriation, and I am pleased to see that you are requesting double that funding, $8 million, for 1991.

By all accounts, the requirements on the States to qualify for section 410 are tough. Have you received any applications for section 410?

General CURRY. We have not received any applications, but I must tell you I am very wary after watching what has happened in 408, and so I am not persuaded that we will not have some that will qualify.

My feeling is that we just may have some that do qualify.

Senator LAUTENBERG. Do you anticipate that we could have as much as—let us see. Funding in 410 not utilized carries over to the next fiscal year. If we accept your request and not much of this year's funding is utilized, there could be up to $12 million required for 1991.

Do you think that we will have that much money in applications by 1991? It is possible. Well, you just said that you do not know.

General CURRY. We just do not know. It is very difficult to say.

Senator LAUTENBERG. OK. We discussed briefly the incentives versus penalties. In section 410, what is your view of the stick rather than the carrot as we have it there?

General **Curry**. Well, across the board at the traffic safety summit the law enforcement officers kept coming back to us over and over and over and said: Please give us the carrot and not the stick; we will promise to be good.

Senator **Lautenberg**. Every school boy says the same thing. [Laughter.]

Should we withhold Federal highway funds from States which continue to allow open containers?

General **Curry**. I am not comfortable at this time making that recommendation, but I am comfortable in saying to you that that concerns me very much. And as we go into this, and as I personally get deeper into it, if I feel that is the way to go about it, I will not hesitate to fight for that.

VEHICLE RULEMAKING

Senator **Lautenberg**. When you came on as Administrator, you announced your intention to shorten the time your agency takes to issue a new regulation down to an average of 18 months, and I want to commend you for that goal. It has taken NHTSA far too long to get regulations out in the past on some very important issues.

How are you progressing thus far on your goals?

General **Curry**. We are progressing very well. We have gotten it down to 18 months. At the same time, it was taking us about 8 months to say yes or no to a petition, to deny it or to grant it. We have gotten that down from 8 months to 3.3 months.

We are making progress across the board in those areas.

LIGHT TRUCK SAFETY

Senator **Lautenberg**. And the staff does not look bloodied at all. That is excellent.

As you know, light vans are becoming the family vehicle of choice in the suburbs. Do you oppose legislation that would extend all auto safety regulations to light trucks and vans, LTV's?

General **Curry**. We feel that we do not need legislation. By rulemaking that we will do in the agency by the end of this calendar year, we will have completed the final rules to extend all passenger car safety standards to light trucks, minivans, those sorts.

AUTOMATIC RESTRAINTS

Senator **Lautenberg**. I understand you have proposed recently to require automatic restraints for light trucks and vans, but this would not take effect until 1996. Why such a long lead time?

General **Curry**. The lead time, of course, is rather standard. As you know, it takes about 4 years on the turnaround. But we have not completed the final rule on that. We have had the comments and we will take a look at how that comes.

We cannot come out with something that cannot physically be done, and I am a little bit concerned about doing that. But at the same time, I have to also say to you that the car manufacturers have been very quick to come on board with this. The chairman of the Chrysler Corp., Ben Bidwell, for example, stood in front of a group in Detroit about 1 month ago and said that he believed that there was an IOU from Chrysler out to the American people to do all of these standards, to put them all in the light trucks, and to get them done as rapidly as possible.

I believe you are going to see industry move very rapidly in that direction and even beat those mandatory dates.

Senator **Lautenberg**. A good time to get to Mr. Stempel, I think his name is, the new chairman at GM; extract a bunch of promises before he moves in.

General **Curry**. I already have, sir. We have already chatted in his office about it.

DRUGGED DRIVING

Senator **Lautenberg**. Do we have good statistics on the number of accidents and fatalities attributable to drugged driving?

General **Curry**. Yes; I think we do. Who wants to take that? Mike?

Senator **Lautenberg**. You shook your head at the wrong time.

Mr. **Finkelstein**. We have statistics that indicate drugs are present in 10 and 25 percent of crashes. Most of the time, in more than one-half of those cases, they are present with alcohol as well. So we have indications that drugs are being used, and we have indications that they result in crashes.

We have the largest study, however, we have ever undertaken going on right now, to make a much more thorough assessment. We are running drug tests on over 2,500 blood samples from fatally injured drivers, and this will provide the best data we have ever been able to produce to determine just what level of drugs is involved in, and contributing to, fatal crashes. This study should be completed in about another year and a half.

Senator **Lautenberg**. Do you think our heightened efforts to control drunk driving have influenced the level of drugged driving, taking aside the factor that you say often both impairment substances are involved? But do you think that we have been able to influence the level of drugged driving as a result of our enforcement of the alcohol?

DRUG RECOGNITION AND CLASSIFICATION

Ms. **Derby**. Our most significant program we have now really tackles both programs, and it is our Drug Recognition and Classification Program. When the officers are trained to be drug recognition experts, they have to be trained to be sobriety test experts. So we tackle both programs with one measure, and I think one does definitely then influence the other.

Senator **Lautenberg**. What level of funding do you expect to direct toward your Drug Evaluation and Classification Program, and what new initiatives are you talking about?

Ms. **Derby**. This year we are asking for $3.1 million to put into that Drug Recognition Expert Program, and a couple of extra positions and a little more travel.

VEHICLE FUEL ECONOMY

Senator **Lautenberg**. As you see, there is so much whispering; it is not about your agency or your responses. We are always being pulled to other places.

I have great respect for the professionalism that your Department has, not only since your arrival, General, but that has long been there, and you seem to be lending impetus to accomplishing goals that I think that your colleagues would agree with and seem to be enthusiastic about.

In closing, the Washington Post recently published an article regarding the tension between safety and development of lighter vehicles with high fuel economy. A colleague of mine, Senator Bryan, has introduced a bill that would require a higher corporate average fuel economy, CAFE, standard for cars sold in 1995 and beyond, and an even higher standard, 40 miles per gallon, by the year 2001.

Your agency is charged with monitoring the manufacturers' compliance with the CAFE standards, but you are also charged with promoting traffic safety. What are your views on the issue?

Can we not simultaneously have higher CAFE standards and new cars that are safe?

General **Curry**. Those things are all interrelated, as you are pointing out, and also thrown into that is clean air, which also affects, as you know, the fuel mileage. So as we work with the car companies, we have tighter emissions standards and clean air. We have more safety features that we are putting in vehicles, and that causes more weight.

And both of those things, by the way, clean air and tougher emissions standards, cause you to burn more gas. Put more weight on vehicles for safety reasons, you burn more gas.

Then at the same time, of course, we would like very much to have higher CAFE numbers. And so all of these three things are sort of warring against one another constantly.

My agency's primary mission, however, is to save lives on America's roads. That is my No. 1 priority and my No. 1 focus. So I must focus first on that, and then as I go below, I look at clean air, which to me, is No. 2. My third one is the CAFE numbers.

If there is some way to have clean air, to have safety, and if it is technically feasible to significantly increase CAFE, I would be in favor of that. But I believe we must clearly demonstrate the technical feasibility of doing that before we move in that direction.

Senator **Lautenberg**. The energy dependence factor is one that we really have to deal with, and I would hope that we can develop enough information to find—and there are schools of thought out there that say—that we can have all these things, that improved technology in the automobile, braking systems, smart cars, et cetera, can make these things all possible.

SUBMITTED QUESTIONS

I thank you very much for your testimony. You have been candid and I would expect nothing less. We will have a bunch of questions that we will submit to you for response. We ask you to make it prompt and thorough.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

SPEED LIMIT

SENATOR LAUTENBERG: If the moratorium is allowed to expire and NHTSA is required to sanction states for failure to enforce their speed limit, how many states would be subject to sanction, and roughly how much money are they likely to lose?

ANSWER: The moratorium already expired (as of September 30, 1988). Thus, the law that requires sanctions against states where more than 50 percent of the motor vehicles on highways posted at 55 MPH exceed that limit, went back into effect as of FY 1989. Five states have reported figures placing them above the 50 percent noncompliance threshold for Fiscal Year 1989: Connecticut - 68.3 percent; New Hampshire - 58.9 percent; Massachusetts - 58.3 percent; California - 53.6 percent; and, Maryland - 52.9 percent. As required by law, NHTSA and FHWA have instituted sanctions proceedings against those States. If apportionment reductions for each state were at the 10 percent maximum the states would lose up to the following amounts: Connecticut $4.0 million; New Hampshire $1.8 million; Massachusetts $7.1 million; California $28.4 million; and, Maryland $5.4 million.

There may be additional noncompliances and sanctions proceedings resulting from FY 1990 data, if the law is not changed.

SPEED REDUCTION EFFORTS

SENATOR LAUTENBERG: What do you think is the promise of photo radar systems which would photograph speeders' license plates as they pass and send them tickets by mail. Do you think this technology would reduce the level of speeding? Is NHTSA doing any research in this area?

ANSWER: Photo radar and Automated Speed Enforcement Devices (ASED) offer law enforcement an opportunity to reduce the labor intensity of speed enforcement. They also can achieve greater equity while increasing the higher level of expectation of apprehension for speeding violations. NHTSA expects that the use of these devices, coupled with an effective public information and education program, will result in a greater general deterrent of speeding than current standard enforcement methods. The devices also provide the ability to enforce speed laws in locations that were previously found to be impractical (e.g. bridges) or too dangerous to motorists and officers (e.g. limited access roadways where shoulders and "breakdown" lanes have been eliminated to provide more traffic lanes).

NHTSA believes that public acceptance of the use of these devices is a prerequisite to any potential for success. Further, this technology must be made a part of a total traffic law enforcement program to be most effective.

The Agency is in various stages of two research projects involving five states. One project involves the Maryland and Virginia State Police in a project on the Washington, D.C., Capital Beltway. The field implementation portion of this project is scheduled to start in the summer 1990. The second project will evaluate the effectiveness of ASED combined with public information in up to three demonstration sites. The demonstration grants will be awarded during the summer of 1990. The contract for evaluating the demonstrations will be awarded by September 1990.

SENATOR LAUTENBERG: In last year's appropriation bill, we provided $1 million to conduct two speed enforcement demonstration projects. What kinds of projects are you looking at?

ANSWER: NHTSA is in the site selection stage of up to three speed demonstration projects, one in the northeast, one in the northwest and a third in the southwest. Project awards are expected in the summer of 1990.

The objective of these projects is to determine whether a speed enforcement program, utilizing advanced technology such as photo-radar and other automated speed enforcement devices (ASED), will improve enforcement efforts and will increase general deterrence resulting in increased voluntary compliance with posted speed limits and reduce speed-related crashes.

The projects will test various photo-radar and ASED in a variety of traffic densities and on various roadway types; test various photo-radar and ASED to determine the ability to discriminate between passenger vehicle and truck traffic; and develop and test new enforcement and deployment strategies for use with photo-radar and ASED.

These demonstration projects will also include public information and education components to modify existing or develop new public information and education resources, and develop new media materials. This information will further increase deterrence and voluntary compliance; achieve public acceptance of the use of these devices; and increase the public's perception of the risk involved in speeding.

SENATOR LAUTENBERG: Doesn't this situation, however, penalize those states that are seeking to enforce their speed limit and are writing lots of tickets? Do you believe this system is a fair one, or do you have any proposals on how to change this system?

ANSWER: Citations are not used as a method of monitoring compliance with speed limits. Congress has specified that compliance is measured by the percentage of motor vehicles exceeding 55 mph on public highways with speed limits posted at 55 mph. The Federal Highway Administration has issued specific procedures, entitled: "Speed Monitoring Program Procedural Manual," that defines the collection and reporting requirements. All of the States have speed monitoring systems in place, which record the number and speeds of motor vehicles. These monitoring plans are approved by the FHWA. Citations are reported by each State and used only as a measure of enforcement activity. For example, if speed limit non-compliance is up and enforcement is down, compared to the previous year, then it may be necessary for a State to increase enforcement. Or, if a state is in compliance and citations are down, it may not be necessary to suggest any changes.

As you have indicated, using the number of citations issued would be an unfair criterion and not representative of all traffic enforcement efforts. However, we believe that the simple measurement of median speed on roads posted at 55 mph is also a poor indicator of the quality of a State's speed program, or of the extent of a state's speed-related problems.

RESTRAINT SYSTEMS

SENATOR LAUTENBERG: What is your plan of action to reach the 70 percent goal in just two years?

ANSWER: NHTSA is restructuring its program to place greater emphasis on enforcement of existing belt use laws and to win public support for their passage in non-law states.

As was recommended at the recent Traffic Safety Summit, NHTSA will: 1) encourage police agencies to establish and enforce belt use policies for their own officers, and 2) provide technical assistance and educational materials to support more effective belt law enforcement.

NHTSA will develop roll call videos to remind police officers of the need to wear belts and to enforce the use laws. NHTSA will develop Public Information and Education materials that can be customized by police agencies and used to publicize their use law enforcement initiatives.

Occupant Protection Program Reviews will be conducted in non-law states as a way to focus the attention of key state officials and the general public on the need for a belt use law and active enforcement of that law.

While the greatest emphasis will be on belt use laws and their enforcement, other NHTSA programs are expected to increase belt usage. NHTSA will continue its national media campaign using the Vince and Larry crash dummies to promote belt use, especially with the new automatic systems. The 70% Plus Honor Roll will be continued to provide national recognition for any group of 100 or more people that attains an observed belt use rate over 70 percent. Pediatricians and other child safety advocates will be provided resource kits to assist them in promoting local enforcement of the State's child passenger safety laws. NHTSA will produce and distribute occupant protection educational materials through the Network of Employers for Traffic Safety. NHTSA will also provide assistance to OSHA in implementing its planned new regulation requiring employees to wear safety belts while operating or riding in a motor vehicle while on the job.

SENATOR LAUTENBERG: What specific funding initiatives do you have in this budget that address the goal of 70 percent seatbelt use?

ANSWER: There are four major funding initiatives.

Use Law Compliance ($1.6 million). NHTSA will produce police roll call videos to convey the most important messages from the Occupant Protection Usage and Enforcement training course, a course designed to convince officers to wear their belts and enforce the use laws in their community. Public Information and Education materials will be developed that can be customized by State and local police departments and used to conduct combined safety belt education and law enforcement programs. Grants will be awarded to law enforcement organizations such as the International Association of Chiefs of Police, to encourage every State to adopt a model belt use program for law enforcement. Occupant Protection Program Reviews will be conducted in non-law states as a way to assist state officials in formulating strategies for generating public interest and support for passage and active enforcement of a belt use law.

Automatic Crash Protection ($2.0 million). NHTSA has been stressing the theme that safety belts and air bags are a winning combination in its national public information and education program. This year that theme will be expanded to show how the new technology, in combination with safety belt law enforcement, can raise use rates toward the President's goal of 70 percent use by 1992. A strategic plan for this year's PI&E program will be prepared, and a public relations manager will oversee its implementation. Vince and Larry will be featured in a new series of Video News Releases and Public Service Announcements explaining how law enforcement and the new technology work together to provide enhanced levels of protection to the motoring public. Fresh waves of VNR's and PSA's will be made available on a quarterly basis.

Target Populations ($1.2 million). While the greatest emphasis will be on belt use laws and their enforcement, NHTSA will continue its efforts to persuade part-time users and non-users to buckle up on every trip by delivering occupant protection education through organizations and groups with access to the desired audiences, e.g., the Network of Employers for Traffic Safety, the American Academy of Pediatrics. The 70% Plus Honor Roll, a national recognition program for any group of 100 or more people that attains an observed belt use rate over 70 percent, will be continued. Pediatricians and other child safety advocates will be provided resource kits to assist them in promoting local enforcement of the State's child passenger safety laws. NHTSA will also provide assistance to OSHA in implementing its planned new regulation requiring employees to wear safety belts while operating or riding in a motor vehicle while on the job.

Technology Transfer/Evaluation ($0.8 million). NHTSA will continue its program to evaluate innovative programs, and to publicize the most effective strategies for increasing safety belt and child safety seat use. The publication and distribution of occupant protection educational materials through the Traffic Safety Programs Information and Resource Center will be continued as well as sponsorship of technical meetings and conferences where the most effective programs and strategies can be presented, e.g., Lifesavers.

SENATOR LAUTENBERG: You awarded 11 grants in 1988 and 17 more grants in 1989 to encourage demonstrations designed around seat belt use. What have been some of the success stories out of these demonstrations, and what are you doing to disseminate these success stories around the country?

ANSWER: Most results of the demonstrations are not yet available. When they are completed, over the next 12 to 15 months, we will prepare and publish a summary report on all project results. Examples of some accomplishments identified to date include: community-level "blitz" projects which combine enforcement and education activities have proved to be effective in increasing safety belt use rates in all the States in which this approach was demonstrated. A demonstration conducted in Wisconsin has stimulated a state-level partnership among the Parent Teachers Association, American Association of Retired Persons and the Wisconsin Extension Homemakers Council to educate their memberships and the public on the proper use of occupant protection systems. All three groups developed materials to reach their constituencies and are continuing to include occupant protection education in their ongoing programs as a result of the project. In North Carolina, usage rates increased from 48 percent to 52 percent in Gastonia and from 56 percent to 65 percent in Albemarle following the kick-off of their projects. Both sites are demonstrating positive incentive strategies, such as giving the "Thumbs Up" signal to belted motorists. In Lawton, Oklahoma, usage rates increased from 22 percent to 43 percent for motorists under age 24, during the first 6 months of a demonstration project to reach young drivers using the theme, "Lifeguard On Duty."

SENATOR LAUTENBERG: Is it true that some States have repealed their mandatory seatbelt laws?

ANSWER: Four States have repealed their safety belt use laws by voter referenda. Nebraska and Massachusetts repealed their laws in November of 1986. Oregon repealed its law in November of 1988, and North Dakota in December of 1989. On the other hand, Montana voted to retain its belt law, in a 1988 referendum. Numerous attempts have been made to repeal belt use laws through legislative action, but all have been unsuccessful. And several State legislatures have voted to retain or strengthen existing belt laws (including Missouri, Minnesota, Wisconsin, Louisiana and New Mexico). The total number of belt laws on the books has continued to rise, and the total now stands at 34 States, D.C. and Puerto Rico. NHTSA will continue to work toward the goal of a safety belt use law in all States, as noted in the National Transportation Policy statement.

SENATOR LAUTENBERG: How successful have these laws been in reducing death and injuries?

ANSWER: At the current rates of safety belt use, states with safety belt use laws have had 7 percent fewer fatalities than they could have expected without a law.

Safety belts are currently saving about 4,500 lives per year, preventing 119,000 moderate-to-critical injuries, and saving some $3.5 billion in economic losses. NHTSA estimates that belt use laws are responsible for approximately 79 percent of those lives saved. If all front-seat occupants buckled up on every trip, another 11,400 traffic deaths could be averted each year, over 150,000 more moderate-to-critical injuries avoided, and an additional $6.7 billion saved.

This information comes primarily from "Occupant Protection Facts," published by NHTSA's National Center for Statistics and Analysis, June 1989.

SENATOR LAUTENBERG: What has been NHTSA's role in promoting mandatory seat belt laws in the remaining 16 States?

ANSWER: The Agency works closely with State highway safety offices through our Regional Offices and the Section 402 Program. It also coordinates efforts with other safety belt law advocates, such as Traffic Safety Now, the American Coalition for Traffic Safety, and the Insurance Institute for Highway Safety; and it distributes information throughout the U.S. to help build support for belt laws and usage programs. Special efforts are taken to supply decisionmakers and opinion leaders in each of the non-law States with an accurate description of the benefits of belt use and belt use laws.

The Agency performs a broad range of program support activities including: advertising campaigns, educational programs, worksite programs promoting belt use among employees, programs targeted to high-risk motorists, and providing technical and financial assistance to State and local belt programs through State highway safety offices. The Agency has continuously supported the pending proposal by the Occupational Safety and Health Administration (OSHA) to require on-the-job belt use and suitable occupant protection training for employees.

In January 1990, NHTSA co-sponsored a National Occupant Protection Conference in Fort Worth, Texas, where participants from 42 States (including 11 non-law States) discussed strategies for enacting belt laws, as well as increasing usage rates. Occupant protection was one of four primary subject areas discussed at the Department's Traffic Safety Summit, held in Chicago on April 1-3, 1990. Safety belt issues discussed included how law enforcement agencies can promote enactment of belt laws in non-law States. The Agency plans to distribute a special video from that conference ("The Cost Of Not Buckling Up") to Governors and State legislators, to emphasize the benefits of belt laws and other traffic safety enforcement activities.

SENATOR LAUTENBERG: Are you actively lobbying state legislatures to advocate seatbelt laws?

ANSWER: The Agency is an active advocate for the enactment, retention, and strengthening of safety belt use laws. We provide information to State legislatures and other policymakers explaining how state belt laws have been effective in increasing belt use rates and reducing crash deaths and injuries. This information is carefully tracked by NHTSA's National Center for Statistics and Analysis.

SENATOR LAUTENBERG: Would you favor Federal legislation making belt use mandatory in the remaining 16 States as well?

ANSWER: While safety belt use laws already cover 85% of the population, the Agency is convinced that the adoption of effective belt use laws by all States could produce even greater benefits in lives saved and injuries prevented. We are hopeful this goal can be achieved without Federal mandates.

NHTSA is pursuing the objectives of new belt laws and greater usage in states that already have belt laws. In that regard, the President has specifically called for increasing the Nation's belt usage rate to 70 percent by 1992 in his transportation safety objectives; and Secretary Skinner has advocated adoption of safety belt use laws in every State in the National Transportation Policy statement. One State, Mississippi, has already passed such a law this year, and it is hoped that two or three more may also pass laws during this legislative session.

SENATOR LAUTENBERG: Has NHTSA determined an effective way to communicate the benefits of mandatory belt use laws to the public and state/local elected officials?

ANSWER: The most convincing arguments are those showing that in their particular state or community, medical care costs are significantly higher for unbelted crash victims, and since many of these costs are not covered by insurance, they must be borne by the taxpayers.

These arguments were dramatically presented in a video entitled "Safety in the Balance," produced for the American Coalition for Traffic Safety (ACTS) and shown by the Secretary at the recent Traffic Safety Summit. Copies of this video were distributed at the Summit.

As a followup to the Summit, the Secretary will write to each Governor, and provide copies of the proceedings and the ACTS video. In addition, the NHTSA Administrator will be writing to each Governor's Highway Safety Representative, state legislative leaders, and the Summit participants.

NHTSA will also continue to provide "Occupant Protection Facts," and news releases on the 19-city restraint use surveys and on fatality and injury reductions from increased belt use. We also work actively with all forms of the news media in order to get out the latest safety belt benefit data.

SENATOR LAUTENBERG: What type of program is the agency following to provide legislators and the public with such information?

ANSWER: The agency pursues a number of different strategies for getting the word out on belt law benefits.

As described earlier, the video produced by the American Coalition for Traffic Safety will receive broad distribution by the agency. In addition, a primary means of informing key individuals is through national conferences such as the recent Traffic Safety Summit attended by law enforcement leaders, the National Occupant Protection Conference (January 1990) attended by occupant protection program specialists, and the annual Lifesavers Conferences designed for all types of traffic safety program specialists.

The agency also operates a Traffic Safety Information Resource Center which responds to hundreds of requests for statistics about belt law effectiveness. Final Reports from belt use law research and demonstration projects are published, publicized and made available to interested parties.

The agency provides technical information and assistance to States considering legislative actions such as enacting a belt use law or changing provisions to make existing laws more effective. NHTSA also encourages States to review their existing laws and activities through Regional Offices and Section 402 program reviews.

The agency provides modest support to organizations that can influence public opinion by communicating the benefits of belt laws to their membership (U.S. Conference of Mayors) or by having their members explain the benefits to elected officials and to the general public (American Academy of Pediatrics and American Academy of Family Physicians).

SENATOR LAUTENBERG: NHTSA currently conducts the 19 city survey of belt use. Are there any activities underway or planned in the FY 1991 request to improve the quality of belt use data gathered from crashes?

ANSWER: NHTSA has several crash data files which contain information on safety belt use in crashes. The National Accident Sampling System, a nationally representative sample of police-reported crashes, uses trained investigators to confirm police-reported belt usages as well as collects in-depth data on the causes of crashes and occupant injuries. Other data bases -- the Fatal Accident Reporting System (a census of all fatal crashes), the General Estimates System (a nationally representative sample of police-reported crashes) and various State traffic crash data files -- all rely on observations by police on accident report forms for information on restraint usage.

At present, NHTSA is pursuing a high priority initiative to work with the States to upgrade their reporting of key highway safety crash data elements. One of these elements is restraint usage. The goal of this initiative is to improve the quality and consistency of State reporting of these elements.

SENATOR LAUTENBERG: Since only about 50% of drivers in states with mandatory belt use laws wear the devices, other methods for increasing belt use appear necessary. Is the agency's FY 1991 budget adequate to pursue research necessary to develop these methods?

ANSWER: Belt laws can produce usage rates well over 50 percent, as shown in several states (Hawaii, California, North Carolina) and other countries (U.K., Canada). NHTSA's occupant protection program seeks to upgrade state belt programs so that more states will achieve higher use rates. Agency strategies to increase belt use include effective enforcement of belt laws, public information and education, worksite programs, and more vehicles with automatic belt systems. The Agency's FY 1991 budget request provides adequate funding for all these activities.

In addition, NHTSA will continue research efforts to evaluate ongoing programs, including belt laws and FMVSS 208. For example, a three-year project is underway to test methods for police to integrate enforcement of state belt laws into their routine enforcement practices. This project emerged from our First Annual Report to Congress on Factors Related to Increasing Belt Use in States with Belt Use Laws, submitted in February 1988. Our fourth, and final report on this topic is scheduled for December 1990.

With respect to worksite programs, we plan to expand our outreach programs during FY 1991 and follow up with employers to determine how worksite belt programs are implemented and how they affect safety belt use levels. This activity should implement the pending Occupational Safety and Health Administration (OSHA) rule for on-the-job belt use.

Research will also develop programs to increase belt use among specific target groups whose regular belt use is below the national average. We plan to identify drivers with high risk of crashes, and then develop effective approaches for increasing their belt usage rates. Key to these efforts is ongoing research to understand attitudes and behaviors of low-use groups, thereby defining effective information and delivery methods to improve their belt use.

SENATOR LAUTENBERG: What plans does the agency have for targeting high-crash risk, non-wearer groups?

ANSWER: The Agency has identified several populations that appear more likely to be involved in a crash and less likely to be buckled up. These include rural populations, economically disadvantaged groups, and youth aged 15 to 24. We have developed several initiatives for reaching these groups with tailored messages designed to increase their use of safety belts and child safety seats.

For example, we have awarded a cooperative agreement to the University of New Mexico's Institute for Public Law to develop culturally-sensitive occupant protection messages for economically disadvantaged populations in the Hispanic, Native American, and Asian communities. This project will also produce a training manual and video to assist other groups in developing appropriate messages for low-income populations in their communities. We are awarding cooperative agreements to other national organizations that can develop similar education outreach efforts for other high risk populations.

SENATOR LAUTENBERG: If the administration's FY 1991 request for increased funding for the national occupant protection education program is enacted, how will NHTSA use those funds?

ANSWER: The increased funding will enable the agency to develop the public education programs and materials necessary to reach the President's goal of a nationwide 70 percent safety belt use rate by 1992. The agency is restructuring its program to place greater emphasis on enforcement of existing belt use laws and to win public support for their passage in non-law states.

As was recommended at the recent Traffic Safety Summit, NHTSA will: 1) encourage police agencies to establish and enforce belt use policies for their own officers, and 2) provide technical assistance and educational materials to support more effective belt law enforcement. NHTSA will develop roll call videos to remind police officers of the need to wear belts and to enforce the use laws. NHTSA will develop Public Information and Education materials that can be customized by police agencies and used to publicize their use law enforcement initiatives.

Occupant Protection Program Reviews will be conducted in non-law states as a way to focus the attention of key state officials and the general public on the need for a belt use law and active enforcement of that law.

Child Passenger Safety Advocacy Kits will address the dual problems of non-use and misuse of child safety seats. Materials and training will be provided to child safety advocates to enlist their support in influencing parents to comply with, and local police to enforce, the State child passenger safety laws.

In addition to these three major new programs, NHTSA will expand the scope of the very successful Vince and Larry Public Information and Education campaign, adding new messages on air bags, automatic safety belts and child safety seats. Other successful programs that will be continued are the Network of Employers for Traffic Safety (NETS) Program, implementation of the new OSHA standard requiring safety belt use on-the-job, and increased support for the National Child Passenger Safety Awareness and Buckle Up, America! weeks.

SENATOR LAUTENBERG: Have you done any research to evaluate whether equipping passenger cars with air bags impacts seatbelt use?

ANSWER: Not enough airbag-equipped vehicles are on the road to conduct meaningful surveys. We do monitor belt use by vehicle type in our 19-City Survey, which has provided usage rates in vehicles equipped with automatic safety belt systems. We expect to have similar data for vehicles equipped with air bags in late 1992.

We will also be evaluating the overall effect of air bags and automatic safety belt systems as part of the FMVSS 208 evaluation, as indicated in the Agency plan published in January 1990.

Finally, as part of our program to promote the correct usage of automatic safety belts and airbag systems, NHTSA will award grants of $250,000 to three states to conduct a 24-month automatic crash protection public awareness program. The impact of the program activities will be assessed over the course of the program. These grants are scheduled to begin October 1, 1990.

SENATOR LAUTENBERG: What is NHTSA doing to encourage the drivers and passengers of air bag equipped cars to buckle-up?

ANSWER: We have a major effort underway to educate people about the effectiveness of airbags as supplemental protection. The continued need for safety belts is stressed constantly. Our message about air bags and belts starts with two facts: motorists must employ belts to derive the maximum effectiveness air bags are designed to provide in frontal collisions; and you must wear a safety belt to create protection in other crash modes (rollover, side impact and rear-enders).

NHTSA's educational materials (brochures, fact sheets, video user's guide, etc) refer to "supplemental" protection afforded by air bags, and stress the need for regular belt use. This is the message in the two Vince and Larry air bag public service announcements that will be distributed this year to all major TV and radio stations. "Belts and Bags--The Winning Combination" is the theme for the national public awareness campaign, Buckle Up America!, during the last week in May. The Agency titled its automatic crash protection film, "The Winning Combination," to communicate the idea that belts and bags are to be used together. This film is used in schools and community education programs across the nation and the Agency is exploring other outlets such as cable TV and movie theatres for even wider exposure. "BELTS + BAGS = THE WINNING COMBINATION," was also selected as the slogan for the new air bag exhibits that NHTSA will provide to each of its Regional Offices. These exhibits will be used at national and state association meetings, state and county fairs, community health fairs and other health and safety events.

NHTSA will award grants of $250,000 to three states who will conduct a 24-month automatic crash protection public awareness program, beginning October 1, 1990. Ideas and strategies that result from these grants will be shared with other States through the Traffic Safety Programs "Traffic Tech" newsletter.

SENATOR LAUTENBERG: How well are air bags working in passenger cars?

ANSWER: The air bag systems in cars on the road are functioning as designed. They are not deploying inadvertently, and in fact they are deploying when required in virtually every case. Electrical air bag circuits provide a diagnostic module to alert the driver if a system defect exists. To date the reliability of air bags has been extremely high. NHTSA has recently published its evaluation plan for automatic restraints. Some preliminary statistical analyses relating to both air bag and safety belt reliability should be completed in late 1990.

SENATOR LAUTENBERG: What is the status of the rulemaking to extend passive restraints to light trucks?

ANSWER: In January 1990, the agency issued a Notice of Proposed Rulemaking (NPRM) proposing automatic crash protection for light trucks and vans. The comment period on the NPRM closed on March 12, 1990. The agency is reviewing and analyzing the comments to this NPRM.

SENATOR LAUTENBERG: When do you expect to issue a final rule extending the requirement to light trucks?

ANSWER: The agency expects to reach a decision on a final rule concerning automatic crash protection for light trucks and vans in the fall (1990).

SENATOR LAUTENBERG: When will the requirement become effective?

ANSWER: In the Notice of Proposed Rulemaking (NPRM), proposing automatic crash protection for light trucks and vans, the agency proposed a phase-in as follows: 20% of each manufacturer's production in MY-1994, 50% in MY-1995, and 100% in MY-1996. NHTSA received a number of comments on the proposed phase-in schedule that were largely from manufacturers who indicated it is too accelerated (especially with regard to air bag development and engineering for light trucks). This is one of the principal issues to be resolved in this rulemaking. The effective date and phase-in schedule would be established in a final rule.

SENATOR LAUTENBERG: In 1987, NHTSA agreed to a petition by Ford asking that they be allowed to use standard seatbelts for the right front passenger seat with airbags on the drivers's side through 1994. Has this action succeeded in increasing the pace of installation of airbags on the driver's side?

ANSWER: Yes. Roughly three million airbag-equipped cars will be produced in model year (MY) 1990 (nearly one-third of the total MY 1990 fleet), far more than would have been possible without the driver-side incentive provision. These include substantial numbers of airbag-equipped cars by domestic manufacturers: Chrysler (1.0 million or 90% of its fleet), Ford (1.0 million or 50% of its fleet), and General Motors (500,000 or 15% of its fleet).

The manufacturers have indicated that the number of airbag-equipped cars will continue to rise in the years ahead: over five million by MY 1993. We expect virtually all models that currently have driver-side air bags will have passenger side units added by the end of the incentive period (i.e. by MY 1994).

Based on the success of this program, we proposed a similar credit for driver-side air bags in our NPRM for automatic protection in light trucks and vans.

SENATOR LAUTENBERG: What was the rationale for this decision?

ANSWER: The agency examined the safety impacts of automatic belts at both front outboard positions versus a driver air bag and a manual lap/shoulder belt for the front right passenger. Assuming a manual belt usage rate of 40 percent for the latter system (which is currently lower than usage in the 19-city survey of 46 percent), automatic belt use would have to be over 76 percent to achieve the same fatality benefit and over 79 percent to achieve the same injury benefit. At the time of the analysis, February 1987, the agency believed that automatic belt usage would be in the 40-70 percent range. Thus, the agency believed that overall safety would be higher with a driver air bag and a manual lap/shoulder belt for the front right passenger than with automatic belts at both positions. For 1989, the 19-city survey found automatic belt usage to be 85 percent.

However, both the usage and the effectiveness of the systems determine the overall safety benefit. The agency does not have enough data yet to determine which system is the safest overall. The agency does believe that the lap/shoulder belt in combination with the air bag is the safest system yet developed, so we are trying to encourage this system.

SENATOR LAUTENBERG: How many petitions has NHTSA received from auto manufacturers seeking exemptions or delays in the installation of air bags or automatic passenger restraints?

ANSWER: NHTSA has received a total of 10 petitions from auto manufacturers seeking exemptions or delays in the installation of air bags or other automatic crash protection restraint systems as required by FMVSS 208.

SENATOR LAUTENBERG: Which manufacturers have sought these exemptions or delays?

ANSWER: The manufacturers that petitioned for exemptions or delays in the automatic crash protection requirements of FMVSS 208 are: Panther Motor Car Co Ltd (2 petitions), Aston Martin Lagonda Ltd, Maserati S.P.A. (2 petitions), Avanti Automotive Corp, Isis Imports Ltd, Ferrari S.P.A., Consulier Industries Inc, and Cantab Motors.

SENATOR LAUTENBERG: How many of these petitions have you granted?

ANSWER: Six petitions have been granted. Two petitions were denied and one is currently under review pending receipt of additional information. The disposition of the petitions is in the following table.

TABLE OF DISPOSITION OF PETITIONS FOR EXEMPTION FROM FMVSS NO. 208

DATE OF PETITION	MANUFACTURER	DISPOSITION
1986	Panther Motor Car Co Ltd	Mooted
1987	Aston Martin Lagonda Ltd	Granted 2 yr. extension
1988	Maserati S.P.A.	Denied
1989	Panther Motor Car Co Ltd	Granted 2 yr. extension
1989	Avanti Automotive Corp	Granted 2 yr. extension
1989	Isis Imports Ltd	Granted 3 yr. extension
1989	Ferrari S.P.A.	Denied
1989	Maserati S.P.A.	Granted 2 yr. extension
1990	Consulier Industries Inc	Granted 6 mo. extension
1990	Cantab Motors	Under review

One petition (from Panther Motor Car Co. Ltd) became moot because the petitioner's request for a delay in installing automatic crash protection in convertibles was overtaken by the agency's decision to delay that date until September 1, 1989.

SENATOR LAUTENBERG: What rationale did you use in granting these exemptions or delays?

ANSWER: By law, NHTSA may grant exemptions from safety standards only in very limited circumstances. For example exemptions can be given to manufacturers with small production volumes that would face substantial economic hardship from having to comply, or manufacturers that want to demonstrate new safety technologies that provide at least an equivalent level of safety. All of the petitioners claimed they were low-volume producers that would face substantial economic hardship from compliance with the automatic crash protection requirements.

Each petition was individually judged within the legal constraints of the National Traffic and Motor Vehicle Safety Act to evaluate the petitioner's arguments that compliance would cause substantial economic hardship and that the petitioner had made a good faith effort to meet the requirements for automatic crash protection.

SENATOR LAUTENBERG: Has there been any follow-up to the child safefy seat hearings which were held in 1988?

ANSWER: NHTSA sponsored two public hearings and opened a public docket regarding child passenger protection during the summer of 1988. As a follow-up, NHTSA prepared a revised Child Passenger Safety Plan dated August 1989 which incorporates projects recommended by commenters at the hearings and in the docket. This plan represents a comprehensive program for improving the safety of children in motor vehicles.

For example, the Agency is carrying out the following activities as outlined in the Plan:

1. Child Test Surrogates - NHTSA has been exploring the development of additional surrogates - a newborn, a nine month old, and a six year old dummy - which should aid in the evaluation of child protection systems. Currently, child safety seat compliance tests are conducted with a dummy representing a 6 month old child and/or a dummy representing a three year old child, depending on whether the seat is labeled for use by infants and/or toddlers.

2. Compatibility - NHTSA has been exploring the compatibility of child safety seats with different types of three-point safety belts and cars with automatic belts.

3. Public Information and Education - In conjunction with the Juvenile Products Manufacturers Association, NHTSA staff met with a group of industry and consumer representatives to discuss ways to increase correct use of child safety seats. Follow-up advocacy and private sector programs are being developed.

4. Enforcement - A publication of selected child passenger safety law enforcement case studies, highlighting innovative enforcement techniques and programs, has been prepared. Further work with the enforcement community to implement these ideas will be an

outgrowth of the recent National Traffic Safety Summit with law enforcement administrators.

Also, while not raised by any commenters at the 1988 hearings, NHTSA has also initiated rulemaking to promote registration of child safety seats.

SENATOR LAUTENBERG: What steps is NHTSA taking to correct the problem of incompatibility between child safety seats and inertia reel belts?

ANSWER: The agency has addressed the issue of child safety seat compability with inertial reel belts in the Final Rule regarding rear seat lap/shoulder belts that was published in November of 1989. The Final Rule states that safety belts that incorporate an ELR (emergency locking retractor) in the lap belt portion of a lap/shoulder belt shall provide some means other than an accessory locking clip to lock the lap belt so that the safety belt assembly can be used to tightly secure a child restraint system. The effective date for this requirement is September 1, 1991.

The agency also requires that vehicles manufactured on or after September 1, 1987, that are equipped with automatic belts at the front right outboard seating position which cannot be used for securing a child restraint system, shall be equipped with either a) anchorages for a lap belt, or b) a manual lap belt or a lap/shoulder belt.

SENATOR LAUTENBERG: What is the agency doing to encourage child booster seat manufacturers to bring back the initial booster seat designs which were safer than the current designs?

ANSWER: The agency is not aware of any data that indicate initial booster seat designs are safer than current designs. The agency issues performance standards that cover all child seats and it is left to manufacturers to develop any design they choose as long as the seat meets the specified performance requirements in Federal motor vehicle safety standard No. 213, "Child Restraint Systems."

SENATOR LAUTENBERG: What is the agency doing to address the problem of occupant protection for children between the ages of 5 and 12 -- those that are too old to be in booster seats, but too young to wear shoulder-lap belt combinations?

ANSWER: In January 1989, the agency published a consumer information bulletin (attached) which provides guidelines for the type of child restraint that should be used for children of various ages and weights. For children between 4 and 8 years old or from 40 to 70 pounds, the child should be kept in a convertible or toddler seat as long as they fit. If the child has outgrown the convertible or toddler seat, the child should be placed in a booster seat that positions the lap/shoulder belt correctly - the lap belt across the child's hips and the shoulder belt does not cross the face or the front of the neck. If the child does not fit in the booster seat, the child should use the available vehicle safety belt system, positioned correctly. For children 8 years and older or at least 70 pounds, use the protection system available in the vehicles.

CONSUMER INFORMATION

US Department
of Transportation

National Highway
Traffic Safety
Administration

January 1989

TRANSPORTING YOUR CHILDREN SAFELY

The safest way to transport young children is in a child safety seat in the rear seat of your car. Every State has a child passenger protection law. Small children (usually, children up to age 4) are required to ride in approved child safety seats or to use safety belts, regardless of whether they're in the front or back seat. Don't think that an adult can safely hold a child. Even a belted adult cannot protect a child during a collision. A crash impact can pull an infant from an adult's arms with a force of 300 pounds or more. *Infants and young children should ride in child safety seats on every trip they take, no matter what kind of vehicle they ride in.*

Proper Use of Child Safety Seats

A child safety seat that is installed and used correctly will provide very effective crash protection for your child. If your child safety seat doesn't fit your car, don't try to "make" it work by make-shift measures. Incorrect use of a child safety seat can drastically reduce its effectiveness.

Make sure that your child is protected by carefully reading and following the instructions that come with the child safety seat. Also, read the car owner's manual for installation instructions.

Remember to ALWAYS...

- Select a child safety seat that fits your child and your car, use it correctly, and use it every time your child rides in a motor vehicle.
- Face infants toward the rear of the car.
- Fasten the safety seat with the car's safety belt, properly routing the belt through the safety seat frame according to the manufacturer's instructions.
- Fasten the child seat harness snugly over the child's shoulders.
- Buy a new child safety seat if you buy a new car and the old safety seat doesn't fit properly.
- Buy and use only child safety seats that meet DOT requirements. Look for this label on the safety seat: *"This child restraint system conforms to all applicable Federal motor vehicle safety standards."* The stamp of manufacturing should be after January 1, 1981.
- Some child safety seats are also FAA-certified for use in airplanes.

Cars and Child Safety Seats - Do They Fit Together?

All child safety seats are not compatible with all cars or seats in cars. Make certain that your child safety seat will fit the cars in which it will be used.

Some problems to avoid:

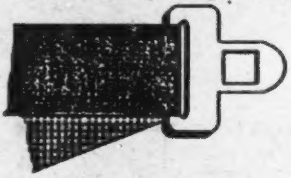
- A child safety seat that is too large to put into the back seat of the car, or has a base which extends too far over the edges of the car's seat. (At least 80 percent of the child safety seat base should be resting on the car's seat.)

- A child safety seat that is too large for the vehicle's safety belt system.
- A safety belt buckle that is impossible to latch or tighten through the child safety seat.
- Child safety seats with lift-up shields that are too high for the car. (The child cannot be removed easily from such a seat.)

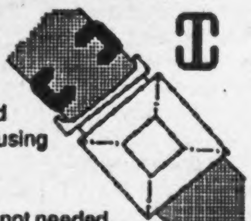
If you have any of these problems, it's time to get a new safety seat. The best child safety seat for you is the one that fits your child, fits your car, and is convenient to use.

Belts and Child Safety Seats

In some cars, the safety belt has a latch plate that moves freely along the belt.



To use an infant or child safety seat with this type of belt system, a ***locking clip*** must be used. This clip comes taped to the child safety seat, and instructions for using it are included.



A locking clip is not needed if the belt is "manually adjustable"--that is, with a latch plate that does not move freely. Most vehicles have this kind of belt at the center rear seat.

Automatic Crash Protection and Child Safety Seats

Your new car may have air bags or automatic safety belts. Each is designed to provide additional protection to front seat passengers.

Air bags provide front seat occupants with supplemental protection but they do not take the place of a safety belt or child safety seat. Children riding in the front seat of a car equipped with driver-side air bags should be protected with a child safety seat, booster seat, or by the car's safety belt (for older children). ***Rear-facing child safety seats should always go in the rear seat in cars equipped with passenger-side air bags.***

Automatic Safety Belts: If your front-seat safety belts are motorized or attached directly to the door, then ***do not use*** a child safety seat in that seating position, unless the car manufacturer provides specific instructions on how to do so safely. (Check the vehicle owner's manual.) Instead, use the child safety seat in the vehicle's rear seat.

REMEMBER: YOUR CHILD'S SAFETY DEPENDS ON YOU.

When shopping for a new car, take your safety seat along to make sure it will fit the car you choose. When shopping for a child safety seat, test each model for fit and convenience in your car and let your child try it.

A shopping guide for child safety seats is available free of charge from:

National Highway Traffic Safety Administration
NTS-13
400 7th Street, S.W.
Washington, DC 20590

Many communities have child safety seat loaner programs; contact your local hospital or public health department for more information.

Your child's size and weight determines the type of child safety seat to use. The chart on the next page shows the correct types of child safety seats for each size of child. Use it when you look for a new safety seat for your car.

SIZE AND WEIGHT GUIDE FOR CHILD SAFETY SEATS

From Birth to 9-12 Months or 20 Pounds

Use an infant or convertible seat facing the rear.

Infant Seat

Rear Facing Convertible Seat

9-12 Months or 20 Pounds to 4 Years or 40 Pounds

Use a convertible or toddler seat.

Convertible Seat

4 Years or 40 pounds to 8 Years or 70 Pounds

Keep children in convertible or toddler seats as long as they will fit.

When they have outgrown the convertible or toddler seat,

- If the vehicle has a lap/shoulder belt in the rear seat, use a booster seat that *positions the lap/shoulder belt correctly--secures the lap belt across the child's hips, and positions the shoulder belt so it does not cross the face or the front of the neck.*

OR

- Use the rear lap/shoulder belt alone *IF it fits properly--does not cross the face or neck and fits across the child's hips and does not ride up across the stomach.*
- If no rear lap/shoulder belt is available, use a shield-type booster seat *restrained by the vehicle lap belt.*
- If no other type of restraint is available, use the lap belt, positioned *low on the hips and adjusted snugly.*

Booster Seat with Lap/ Shoulder Belt

Vehicle Lap/ Shoulder Belt

Shield-Type Booster Seat

8 Years and Older or 70 Pounds or more

Use the protection system that is in the vehicle.

Vehicle Lap Belt

NOTE: Ages and weights are approximate. Manufacturer's instructions should be consulted for exact figures. Use only safety seats labeled: "This child restraint system conforms to all applicable Federal motor vehicle safety standards" and has a stamp of manufacturing after January 1, 1981.

- **Want more information on traffic safety? Call the HOTLINE. They will either send you the material you want [information on subjects such as safety belts and drunk driving], or refer you to the right source -- such as your state highway safety office.**

- **If you think a car may have a safety defect, call the HOTLINE. Reports from consumers are one of the most important sources of information on possible safety defects.**

- **If you wish to write, the address is:**

National Highway Traffic Safety
Administration - NEF-10
400 Seventh St., S.W.
Washington, DC 20590

- **For information on auto problems other than safety ones, contact:**

Federal Trade Commission
Pennsylvania Ave. & 6th St., N.W.
Washington, D.C. 20580
202-326-3128

You can request a brochure on warranty laws from the FTC called "Buying A Used Car."

FTC handles:
- **advertising practices**
- **credit practices**
- **used car warranty & defects labeling**
- **trade abuses**
- **warranties**
- **non-safety defects**

Environmental Protection Agency
401 M St., S.W.
Washington, D.C. 20460
202-828-3535

EPA handles:
- **air pollution**
- **fuel economy ratings**
- **toxic substance pollution**

U.S. Department of Justice
Consumer Affairs Section
Pennsylvania Ave. & 10th St., N.W.
Washington, D.C. 20530
202-724-6786

Justice enforces:
- **sticker price labeling**

WRITE THIS NUMBER IN YOUR PHONE BOOK TODAY!!!

AUTO SAFETY HOTLINE

1-800-424-9393

(IN DC METRO AREA, DIAL 366-0123)

SENATOR LAUTENBERG: What is the agency doing to encourage child safety seat manufacturers to make their instructions simpler and more uniform?

ANSWER: Federal motor vehicle safety standard No. 213, "Child Restraint Systems," includes labeling requirements for child restraint systems. These labeling requirements mandate the specific words that a manufacturer must use in its instructions, including the weight and height of the child, proper adjustments of child restraint belts, proper child restraint adjustment positions, proper use of anchorage straps, etc. This encourages both uniformity of instructions and the use of simple language in the instructions.

In addition, the agency is planning to offer a training seminar on developing effective instructions at the 1990 Juvenile Products Manufacturers Association Trade Show. The agency will arrange for specialists in the field of technical communication to present the manufacturers with techniques for effectively relaying complex technical concepts and procedures to a lay audience.

SENATOR LAUTENBERG: Apparently, up to 25% of child restraint users do not use the seats correctly. Is NHTSA addressing this issue through development of performance standards, equipment specifications, educational or other means?

ANSWER: NHTSA addresses the problem of child seat misuse through both regulation and education. Federal motor vehicle safety standard No. 213, Child Restraint Systems, requires that a label which includes a diagram describing proper installation and use be attached on the seat. The standard also limits the use of design features such as tether straps that have proven not to be used or to be frequently misused.

The agency includes a message about correct use in all of its child passenger safety education efforts. These include public information that is directed to consumers (the agency's Consumer Information Bulletins and News Releases), technical support to community child passenger safety educators, and the promotion of child passenger safety law enforcement. Examples of recent efforts include the Occupant Protection Usage and Enforcement Course which trains law enforcement officers to recognize and correct child seat misuse and the Effective Child Passenger Safety Advocacy Kit that is being developed to inform community program leaders concerning the technical aspects of correct use and of methods to disseminate this information to the community. Similarly, NHTSA funds the American Academy of Pediatrics in publishing the Safe Ride News, which is distributed across the country. This publication provides information on proper child restraint use, and misuse problems.

SENATOR LAUTENBERG: As the number of older drivers increases, will the design of seat belts need to be reexamined, e.g. to provide a "softer" design less likely to induce injury?

ANSWER: The agency has continued to monitor the effectiveness of safety belts in order to ensure the optimum safety benefit for all users, including the older occupants. Recently, the agency published an evaluation plan to determine the effectiveness of automatic occupant crash protection systems, such as automatic safety belts. NHTSA has found that manual safety belts, when worn, provide a 40-50% reduction in fatality risk. NHTSA plans to continue monitoring safety belt and automatic restraint performance in order to detect and identify any trends or changes in effectiveness. Should such changes or trends become apparent, for example, an increasing population of older occupants, rulemaking would be considered to change the performance requirements of safety belts.

NON-AUTOMOBILE VEHICLE SAFETY

SENATOR LAUTENBERG: Now that NHTSA has made motorcycle safety a §402 funding priority for the States, has the agency devoted more of its own resources to that issue?

ANSWER: The agency has increased the §403 funds dedicated to motorcycle safety since this was made a priority program area. The agency now has a full-time staff person assigned to this area, who works to promote motorcycle safety with the various motorcycle organizations (such as the Motorcycle Safety Foundation and the American Motorcyclist Association). Also, the designation of motorcycle safety as a Section 402 grant program "national priority" generates closer attention by the State highway safety offices and NHTSA regional offices in reviewing motorcycle issues at the State and local levels. Increasing the number of States with mandatory helmet use laws is one of the Agency's high priorities as reflected in its 3-year Priority Plan.

SENATOR LAUTENBERG: What new programs, if any, has NHTSA developed to address the problem of motorcycle safety, and how effective have those programs been?

ANSWER: The agency has initiated a number of new motorcycle safety programs. The agency is conducting field tests of the research findings on cues to assist police in detecting DWI motorcyclists. A similar project for passenger vehicles resulted in a very successful training programs for DWI law enforcement. NHTSA is supporting a motorcycle licensing project in the State of New York. The project goal is to reduce the high number of improperly licensed motorcyclists on the road. A number of local Community Traffic Safety Programs are being funded to incorporate motorcycle safety into their existing programs. In conjunction with NHTSA, the American Motorcyclist Association has implemented a major public information campaign which promotes all aspects of motorcycle safety. It is still too early to assess the effectiveness of these programs. NHTSA believes that the most effective programs are those that have been well established for many years: helmet use, rider training and classified licensing.

SENATOR LAUTENBERG: Would you favor Federal action to promote motorcycle helmet use laws, in view of the evidence that motorcycle deaths and injuries increased as a result of many State helmet laws having been repealed?

ANSWER: The agency strongly supports and promotes State passage of motorcycle helmet use laws for all riders. The agency provides a significant amount of assistance including technical and research publications, public information and education materials, expert testimony, and coalition building skills to the advocates of such laws. NHTSA works closely with private and public sector organizations to build support for helmet use laws. Organizations from the areas of public health, injury prevention, medical and emergency medical are involved with NHTSA in support of enactment of helmet use laws.

We are encouraged by renewed interest by States in motorcycle helmet usage laws (in fact, four new State laws have been enacted since 1988). The passage of such laws is also an important objective in the agency's three-year safety plan.

SENATOR LAUTENBERG: What is your position regarding seat belts on school buses?

ANSWER: The size of the school bus determines whether safety belts are required equipment for passengers. Federal regulations require that all buses under 10,000 pounds have safety belts for the driver and all passengers. Buses over 10,000 pounds must have a safety belt for the driver, and States and local school systems have the option of installing belts for school bus passengers. NHTSA bases this regulation and policy on the results of a number of research studies conducted to determine the crash protection capabilities of large buses that are manufactured to meet the upgraded Federal Motor Vehicle Safety Standards that became effective on April 1, 1977. These standards required manufacture of bus interiors designed to reduce serious injuries and deaths through passenger seat compartmentalization.

This issue has been re-examined in several major studies: by the agency in 1985, by NTSB from 1987-1989, and by the National Academy of Sciences (NAS) in 1989. Each study concluded that compartmentalization requirements are working well, and that a new regulation requiring the addition of belts for passengers on large buses cannot be justified. NHTSA thus believes that the current standard provides a significant level of safety and is functioning effectively as required. Of course, the States may add safety belts if they wish, in which case we recommend that States implement an effective program to motivate and enforce belt usage. However, as was clearly discussed in the NAS report, there are other, more cost-effective safety options for allocation of scarce school system resources (both on bus hardware and for operational programs).

SENATOR LAUTENBERG: How many States applied for the FY 1990 §402 funds which were earmarked for school bus safety?

ANSWER: All 50 States and the District of Columbia applied for and received the full amount of FY 1990 §402 funds ($4.5 million) designated by the agency for school bus safety, as authorized by the 1987 Surface Transportation Act.

SENATOR LAUTENBERG: What sort of school bus safety programs were developed and implemented by the States? How effective were those programs?

ANSWER: In FY 1990, the States will use their special §402 set-aside funds primarily to develop programs in school bus driver training, pedestrian safety for children as they enter and exit school buses, and bicycle safety. Other activities to be funded under §402 in 1990 include public information programs on pupil transportation safety, programs to eliminate standees on school buses, and projects to improve school bus routes and stops. Some States will use their funds for school bus structural improvements, such as adding stop signal arms and upgraded mirrors.

These funds are being used by States in areas NHTSA has designated as "most effective" and "effective" in a Federal Register notice published on July 20, 1989. This notice summarized and set priorities for pupil transportation safety based on the findings of the National Academy of Sciences in its special report #222, Improving School Bus Safety, published in 1989. These funds were awarded last fall, and many projects are just now getting underway. It may be up to several years before we are able to assess the actual effectiveness of these activities as implemented.

SENATOR LAUTENBERG: What impact did the earmarking have on State highway safety programs?

ANSWER: The earmarking increased State funding for pupil transportation activities, but reduced the funding available for priority safety areas (such as occupant protection, DWI and motorcycle safety) by $4.5 million. It is still too early to assess the effectiveness of these increased pupil transportation activities.

SENATOR LAUTENBERG: Does the agency intend to require FY 1991 funds to be earmarked for that same purpose?

ANSWER: Yes, the agency will allocate FY 1991 funds for States to use for pupil transportation safety activities, just as it directed that FY 1990 funds be spent for such activities. We believe that is most consistent with Congressional intent in the 1987 highway bill, and it should enhance State programs begun with the FY 1990 set-aside funds. However, we do not support further extension of that set-aside provision.

SENATOR LAUTENBERG: What other steps has the agency taken to improve school bus safety?

ANSWER: A number of rulemaking actions have been initiated to improve school bus safety. The following Federal Motor Vehicle Safety Standards (FMVSSs) are the subject of rulemakings underway:

FMVSS No. 111, "Rearview Mirrors" -- The agency issued an Advance Notice of Proposed Rulemaking in the Federal Register on December 27, 1989, requesting comments on various mirror systems and other devices, e.g., crossing control arms, sensors, and video systems, to improve the safety of children at bus stops. Research on school bus mirror systems is near completion, and a Notice of Proposed Rulemaking on FMVSS No. 111 is scheduled for publication in Summer or Fall 1990.

FMVSS No. 131, "School Bus Pedestrian Safety Devices -- The agency issued a Notice of Proposed Rulemaking in the Federal Register on February 2, 1990, to require stop signal arms on new school buses. The final rule is scheduled for publication in Summer 1990.

FMVSS No. 217, "Bus Window Retention and Release" -- The agency published an Advance Notice of Proposed Rulemaking in the Federal Register on November 4, 1988, on issues relating to emergency exits. A Notice of Proposed Rulemaking to increase the number of emergency exits required for new school buses is scheduled for publication in May 1990.

FMVSS No. 221, "School Bus Body Joint Strength" -- The agency has recently completed research on means of upgrading the joint strength of materials used on school buses. A Notice of Proposed Rulemaking on FMVSS No. 221 is scheduled for publication in Summer 1990. This notice will not only propose upgraded test procedures but also propose limits on the number and size of maintenance access panels that can cause injuries to occupants in a crash.

FMVSS No. 301, "Fuel System Integrity" -- The agency issued an Advance Notice of Proposed Rulemaking in the Federal Register on March 30, 1989, on issues relating to the level of protection needed for the fuel system on school buses. An agency research plan and rulemaking activities are being formulated based on the comments to that notice.

FMVSS No. 302, "Flammability of Interior Materials" -- The agency published an Advance Notice of Proposed Rulemaking in the Federal Register on November 4, 1988, on issues relating to the flammability of interior materials used in school buses. In January 1989, the agency contracted with the National Institute of Standards and Technology to evaluate school bus seating materials and to develop information for the agency to use in establishing new test procedures and test criteria for the flammability of interior materials. That research is complete, and the agency is reviewing the data as the basis for the next rulemaking step towards upgrading FMVSS No. 302.

SENATOR LAUTENBERG: Has NHTSA made pedestrian safety a priority? Data indicate that pedestrian fatalities accounted for

14.5 percent of all motor vehicle-related fatalities in 1987 -- not an insignificant number?

ANSWER: In the agency's final rule that was published in the Federal Register on April 6, 1988 (53 F.R. 11255), NHTSA stated its determination not to include pedestrian safety as a priority §402 program area. This rule was published following a Notice of Proposed Rulemaking (52 F.R. 33422), three public hearings, a review of nearly 300 written comments to the docket, and the testimony of 80 participants during the three hearings.

As stated in the final rule, the decision not to include pedestrian safety as a priority program was based on a finding that many of the countermeasures funded under the existing Alcohol Countermeasures, Police Traffice Services, and Traffic Records priority programs have been proven to be effective in reducing pedestrian problems. In addition, sufficient evidence of other effective pedestrian countermeasures has not been demonstrated.

Although pedestrian injuries and fatalities comprise a substantial portion of all motor vehicle-related crashes, the agency is not at liberty to add pedestrian safety to the list of §402 National Priority programs based solely on the extent of the problem. The Federal statute directs NHTSA and FHWA to determine under section 402 which programs are "most effective in reducing accidents, injuries and deaths."

The agency has continued to promote pedestrian safety activities. One major activity is the joint NHTSA/Federal Highway Administration pedestrian safety program. This program will implement eleven comprehensive community-based pedestrian safety programs during FY 1990 and FY 1991. Other activities include the development and distribution of resource materials, and the development of pedestrian safety enforcement strategies.

SENATOR LAUTENBERG: How much of the agency's resources are devoted to pedestrian safety?

ANSWER: In FY 1990, the agency's Traffic Safety Programs office devoted $170,000 to pedestrian safety activities. Of that amount, $90,000 was used for a pedestrian program conducted jointly with FHWA (which is contributing the same amount). The program will award eleven grants of approximately $30,000 each in FY 1990 and 1991 to fund comprehensive community-based pedestrian safety activities.

In FY 1990, the agency's Research and Development office allocated $174,000 to pedestrian safety. These funds are being used for two major research projects. The first, a joint NHTSA-FHWA project, involves the development of pedestrian safety procedures and techniques for senior citizens in and around special housing areas. The second updates pedestrian countermeasure information and examines mechanisms and strategies for technology transfer of pedestrian and bicycle countermeasure products.

In addition, several other agency program areas, while targeted to other safety issues, have a beneficial effect on pedestrian safety -- such as programs to reduce impaired driving, to assist in police enforcement of traffic laws, and to upgrade data systems on traffic crashes.

SENATOR LAUTENBERG: Does the agency plan to increase that amount any time soon?

ANSWER: Our total funding for specific pedestrian safety programs would be increased substantially for FY 1991. Under our request, we anticipate allocating approximately $150,000 to Traffic Safety Programs in pedestrian safety in FY 1991. These funds will be used for second year funding of the joint NHTSA/Federal Highway Administration grant program and to produce a limited number of support resource materials.

In FY 1991, we will increase Research and Development expenditures on pedestrian safety to $325,000. These funds will be used to fund studies pertaining to the elderly, pre-school children, and alcohol-impaired pedestrians.

SENATOR LAUTENBERG: What is the status of the NPRM mentioned on page 29 of the NHTSA request? When will this be issued?

ANSWER: This portion of NHTSA's budget request discusses funding requirements for pedestrian safety research. The agency is continuing to analyze data that indicate the potential for head injury reduction when a pedestrian strikes a vehicle hood. Developing and determining the potential benefits of countermeasures and test dummies to measure performance are very complex safety problems. Currently, there is no specific date scheduled for issuance of an NPRM.

SENATOR LAUTENBERG: Please expand on your proposed program regarding NHTSA's efforts to reduce alcohol-related crashes involving commercial drivers. What is the specific amount of funding requested to support this effort?

ANSWER: The Agency is compiling a commercial vehicle enforcement guide for traffic officers. The guide will provide information about the detection of commercial drivers who are under the influence and the special application of regulations pertaining to the use of alcohol promulgated by the Commmercial Driver's License program. States participating in a truck enforcement program directed toward hazardous moving violations will receive training and technical assistance to implement this enforcement effort. The funding for this program is $80,000.

SENATOR LAUTENBERG: Why isn't this activity conducted in the Office of Motor Carriers (OMC) in FHWA?

ANSWER: Enforcement of alcohol-related violations is conducted by commercial vehicle inspectors (who may or may not be law enforcement officers) during equipment and driver checks and by officers assigned to routine traffic enforcement duties which include accident investigation as well as enforcement of "moving" violations. FHWA concentrates its efforts on the vehicle and driver inspection aspect of commercial enforcement while NHTSA is concerned with providing assistance to police assigned to traffic duties.

We are coordinating this program with FHWA, to promote coordination between the two groups of State enforcement agencies (police and commercial vehicle enforcement) as well.

SENATOR LAUTENBERG: How will this effort be coordinated with OMC?

ANSWER: NHTSA's Police Traffic Services Division and OMC have established and maintain close coordination of programs that involve commercial vehicle enforcement. Specific to this effort, the agency and FHWA are co-funding a grant to the California Highway Patrol to provide a staff member who is responsibile for coordinating the Commercial Vehicle Enforcement Pilot Project (CVEPP). The CVEPP coordinator assigned to NHTSA's Office of Traffic Safety Programs is working closely with OMC to ensure alcohol-related regulations are uniformly applied by commercial vehicle inspectors and police traffic personnel.

SENATOR LAUTENBERG: How will States be able to use a NDR inquiry capability as part of its CDL issuance process?

ANSWER: States are required by the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 to check both the Commercial Driver License Information System (CDLIS) and the NDR as part of their commercial driver licensing process. Accordingly, as States implement the CMVSA requirements, they establish procedures to send inquiries to the NDR to determine if a commercial driver's license (CDL) applicant has an adverse driving record relating to his or her operation of any motor vehicle.

The States are to give full weight and consideration to such information in deciding whether to issue a CDL. NHTSA, FHWA and State driver licensing agencies have been working together to coordinate the CDLIS and the NDR. This new procedure will permit States to access both files with a single inquiry.

SENATOR LAUTENBERG: The Subcommittee has a long-standing interest in the safety record of the commercial motor carrier industry. For each of the last ten years including 1989 please prepare a table of the total number of deaths associated with accidents involving commercial motor vehicles (including those weighing 10,000 pounds or more). In this table please include occupant as well as non occupant and pedestrian bystanders, vehicles miles travelled, and fatal accident rate. What degree of uncertainty is associated with the estimate of the vehicle miles travelled. Please estimate the total number of injuries associated with accidents involving commercial motor vehicles for the same period. Please include separate columns for accidents involving buses.

ANSWER: Attached are tables containing the requested data. 1989 fatal accident data are not included as they will not be available from NHTSA's Fatal Accident Reporting System until the end of May. Injury data reported are from the National Accident Sampling System (NASS) for the period 1979-1986. These are the only data available. Since 1987, heavy truck crashes have not been investigated in NASS. NASS data should not be used for interpreting trends in medium/heavy truck crashes as the NASS sample is too small to do so accurately. Based on an average of annual medium/heavy truck crashes over the period 1982-1986 in NASS, NHTSA estimates that about 360,000 crashes occur each year. Data on vehicle miles of travel are collected by FHWA. FHWA is unable to produce estimates of uncertainty associated with this data. Only fatal accident data are presented for buses, as there are too few in NASS to produce reliable national estimates of total bus crashes. Thus, NHTSA cannot determine vehicle miles traveled for commercial buses, and therefore can not compute crash rates.

Fatalities in Crashes Involving a Medium/Heavy Truck (10,000 lbs or greater)

YEAR	FATAL ACCIDENTS	VEHICLE MILES OF TRAVEL (Millions)	FATAL ACCIDENT RATE PER 100 Million VMT	FATALITIES			
				TOTAL	TRUCK CCUPANT	OCCUPANTS OF OTHER VEHICLE	NON-OCCUPANT
1979	5,684	109,004	5.2	6,702	1,432	4,615	655
1980	5,042	108,491	4.6	5,971	1,262	4,084	625
1981	4,928	108,702	4.5	5,806	1,133	4,126	547
1982	4,396	106,880	4.1	5,229	944	3,790	495
1983	4,615	113,163	4.1	5,491	982	3,941	568
1984	4,831	123,927	3.9	5,640	1,074	4,036	530
1985	4,841	126,580	3.8	5,734	977	4,227	530
1986	4,785	130,141	3.7	5,579	926	4,088	565
1987	4,813	135,601	3.5	5,598	852	4,194	552
1988	4,885	141,379	3.5	5,679	911	4,250	518

SOURCE: Fatalities – Fatal Accident Reporting System (FARS), NHTSA
Vehicle Miles of Travel – Federal Highway Administration (FHWA)

Fatalities in Crashes Involving an Intercity/Cross Country Bus

		FATALITIES			
YEAR	FATAL CRASHES	TOTAL	BUS OCCUPANT	OCCUPANT OF OTHER VEHICLE	NON-OCCUPANT
1979	37	46	6	32	8
1980	38	66	23	35	8
1981	48	65	6	44	15
1982	37	45	5	27	13
1983	41	49	9	21	19
1984	48	55	9	28	18
1985	29	40	15	20	5
1986	33	37	4	28	5
1987	29	54	19	28	7
1988	31	37	8	20	9

CRASHES AND INJURIES INVOLVING A MEDIUM/HEAVY TRUCK (10,000 lbs or greater)

YEAR	CRASHES	VEHICLE MILES OF TRAVEL (Millions)	CRASH RATE PER 100 MILLION VMT	INJURIES			
				TOTAL	TRUCK OCCUPANT	OCCUPANT OF OTHER VEHICLE	NON-OCCUPANT
1979	400,000	109,004	367	167,000	51,000	115,000	1,000
1980	370,000	108,491	341	150,000	46,000	96,000	9,000
1981	315,000	108,702	290	126,000	36,000	88,000	2,000
1982	303,000	106,880	283	126,000	42,000	81,000	2,000
1983	371,000	113,163	328	151,000	44,000	103,000	4,000
1984	362,000	123,927	292	172,000	44,000	125,000	4,000
1985	399,000	126,580	315	147,000	43,000	99,000	5,000
1986	350,000	130,141	269	195,000	57,000	135,000	4,000

SOURCE: National Accident Sampling System (NASS), NHTSA
Vehicle Miles of Travel – Federal Highway Administration (FHWA)

NOTE: Sum of injuries may not equal total due to rounding

SENATOR LAUTENBERG: Please assess the quality and availability of information advising the public on how to share the road with the motor carrier industry. What does NHTSA have planned in this area for FY 1991? What could NHTSA do in this area if additional funds were approved?

ANSWER: There are some excellent programs and resources available on sharing the road and special information to truck drivers. The Office of Public Affairs for the American Trucking Associations publishes two pamphlets, Sharing The Road With A Truck and Sharing The Road With A Car, which are available to organizations to reprint with their names or trademarks on them. The Ohio Department of Highway Safety reports a program for high school driver education classes which allow students to sit in a truck cab and observe the blind spots from a truck driver's viewpoint, as well as other defensive driving instruction about large trucks. Michigan's AAA published a report entitled, Cars And Trucks, Sharing The Road Safely, which contains a series of articles on defensive driving tips for the truck and auto driver.

Additionally a number of programs are aimed at assisting truck drivers to safely traverse unfamiliar terrain: A truck safety map has been printed and distributed by the California Highway Patrol to alert drivers to dangerous conditions and confusing locations. Colorado has a cassette tape guiding truck drivers going "across the Rockies" narrated by C.W. McCall and keyed to milepost numbers.

NHTSA is assisting New Jersey with their statewide Truck Safety Project (NJ is one of the NHTSA commercial vehicle enforcement pilot programs), and conducted a workshop on the subject at the LIFESAVERS 8: National Conference On Highway Safety Priorities in San Diego, CA.

In FY 1991, we will continue our work with the CVEPP sites and others to promote sharing-the-road information with the trucking industry, law enforcement and highway safety officials.

As funding becomes available, we plan to compile numerous countermeasures and activities into a resource document, for the benefit of states and organizations desiring to institute similar programs, and to research effective methods of distributing information to motorists and truck drivers.

SENATOR LAUTENBERG: Please list recent projects by fiscal year (1988, 1989, 1990, and 1991) supported with NHTSA funds (including 402, 403, 209, 408 and 410 funds) that are specifically targeted towards or include focus on, commercial motor vehicle drivers or carriers. Please summarize the scope and nature of each of these projects, especially those dealing with traffic enforcement, and estimate the current funding for each.

ANSWER: Projects funded under NHTSA's 402 program almost always apply to the general motoring population, and thus are not listed by type of vehicle. In fiscal year 1988, 1989, 1990 and 1991, 403 funds supported the Commercial Vehicle Enforcement Pilot Project through three phases of development. The first phase resulted in the publication of Commercial Vehicle Enforcement: A Guide For Law Enforcement Managers which has been widely distributed and has been reprinted for the third time. Phase two included an evaluation and reports by CVEPP on seven agencies who participated in a pilot project and included recommended enhancements for their particular commercial vehicle programs. The final phase included a follow up on the recommendations which will be completed early FY 1991. Also, a workshop was conducted to formulate strategies for enforcement of hazardous moving violations involving truck drivers. A training program is being developed to implement these strategies which will include checking driver's qualifications, alcohol and drug use, and hours-of-service among other violations. The training will be designed to encourage increased commercial vehicle enforcement by the patrol officer.

There are states that have used 402 funds specifically for truck enforcement programs. For example, New Jersey has funded several truck enforcement programs for municipal police, starting this initiative in Bergen County. In Colorado, 402 funds were used to produce and distribute a cassette tape guiding truck drivers going "across the Rockies" narrated by C.W. McCall and keyed to milepost numbers. Each of these 402 funded projects have helped improve truck safety.

Funding for the CVEPP has been shared between NHTSA and FHWA. The individual grants to the California Highway Patrol have been for 18 to 24 months. The total cost in FY 1988 was $49,000, in FY 1989 $68,500, in FY 1990 $50,000 and FY 1991 funding is projected for $66,500. No funds from the Section 209, 408, or 410 programs have been targeted specifically for commercial vehicle enforcement.

SENATOR LAUTENBERG: What is the effectiveness of these projects? What studies have been performed to assess their effectiveness?

ANSWER: The recommendations for each of the seven Commercial Vehicle Enforcement Pilot Project (CVEPP) sites were site-specific and resultant from on-site needs assessments. The recommendations varied from modifications to inspection stations to increased training for police officers and truck inspectors in areas ranging from identifying equipment violations to drug interdiction. The progress reports submitted by CVEPP agencies are used to assess the progress and effectiveness of these projects. For example, Bergen County, New Jersey reported that one year after implementation of CVEPP, the involvement of heavy trucks in fatal crashes was reduced from 24 percent to two percent. While reports on Tennessee's Operation S.T.O.P. (Speeding Truck Offense Program) indicated that this program lowered the commercial carrier fatalities from 33 in 1987 to 17 in 1989. In Colorado 402 funds were used to produce and distribute 10,000 cassette tapes providing truck drivers with information on hazardous conditions that are keyed to mile markers. The tapes, which were distributed in only 2 months, were to be dropped off at locations on either side of the Rockies so that they could be used by other drivers. Only 90 tapes were returned. A survey of drivers indicated that the tapes were not returned for one of three reasons: they were too good, the drivers wanted to hold the tapes until they had them memorized or they were given to other drivers. The impact of this three-month old program has not been measured.

New Jersey has expanded training of State police officers to include in-service instruction of truck inspectors and traffic officers in hours-of-service and equipment violations and has trained fifty officers in commercial vehicle drug interdiction under FHWA's "Operation Deacon". The effectiveness of these projects, based on the accomplishment of CVEPP program recommendations, will be contained in the September, 1990 final report.

SENATOR LAUTENBERG: How are these activities coordinated with MCSAP?

ANSWER: NHTSA's Office of Enforcement and Emergency Services and FHWA's MCSAP staff have established and maintain close coordination on programs that involve commercial vehicle enforcement.

Periodic briefings on the CVEPP are provided for MCSAP and management staff. In addition, copies of all technical assistance follow-up reviews are coordinated with both the headquarters and field staff. Also, copies of trip reports are provided to headquarters and field staff.

Both agencies, NHTSA/FHWA, have been involved in the development of a truck safety plan which reflects joint cooperation and planning in areas of mutual concern.

SENATOR LAUTENBERG: What else is NHTSA doing to promote the enforcement of traffic safety regulations pertaining to commercial motor vehicles?

ANSWER: Information on various commercial vehicle programs conducted in the CVEPP project states and other jurisdictions is collected and shared through communication with national safety organizations. These include the International Association of Chiefs of Police, National Sheriff's Association, American Trucking Association, Commercial Vehicle Safety Alliance, Operation C.A.R.E.

(Combined Accident Reduction Effort), LIFESAVERS, and American Association of Motor Vehicle Administrators.

SENATOR LAUTENBERG: How much is spent on these efforts?

ANSWER: These efforts have been funded as a part of the Commercial Vehicle Enforcement Pilot Project (CVEPP). In fiscal year 1988, 1989, 1990 and 1991, 403 funds supported the CVEPP through three phases of development. Funding for the CVEPP has been shared between NHTSA and FHWA. The total cost in FY 1988 was $49,000, in FY 1989 $68,500, in FY 1990 $50,000 and FY 1991 funding is projected at $66,500.

SENATOR LAUTENBERG: How are these activities coordinated with FHWA? Is there adequate Federal attention and funding directed at this area of safety?

ANSWER: NHTSA has initiated a working group with FHWA to develop a Heavy Truck Safety Plan which includes commercial vehicle safety issues from both agencies. This comprehensive plan will supplement NHTSA's internal safety plan. It will help to avoid duplication of effort between the two agencies, facilitate research and rulemaking, support FHWA's Motor Carrier Safety Assistance Program (MCSAP), and inform FHWA of any planned motor vehicle safety standards that FHWA might want to incorporate into the FMCSR.

The Federal resources made available for truck safety (e.g. MCSAP) have increased substantially in recent years. In view of continuing needs in all areas of highway safety, careful coordination of programs and resources is needed.

SENATOR LAUTENBERG: What else could NHTSA do to promote enforcement of traffic regulations pertaining to commercial vehicles?

ANSWER: NHTSA will continue to expand efforts to work directly with law enforcement, safety groups and trucking industry associations in compiling information on effective commercial vehicle programs, and acting as a channel to distribute that information.

SENATOR LAUTENBERG: What evidence is there that speeding or violating safety regulations is a major causal factor in accidents involving commercial motor vehicles? (Please provide citations.)

ANSWER: The 1987-1988 National Transportation Safety Board Safety Study, Fatigue, Alcohol, Other Drugs And Medical Factors In Fatal-To-The-Driver Heavy Truck Crashes (Volume I) identified fatique as the most frequently cited probable cause (31%) and impairment from alcohol or drugs as the next most frequent probable cause. A Department Report, Identification of Preventable Commercial Vehicle Accidents and Their Causes (1985), showed speed and speed related violations, (failure to allow for environmental conditions, careless or reckless, too fast for highway curves, etc.), to be the primary factor in 8,038 cases in 19,169 crashes, or 42% of the accidents studied.

SENATOR LAUTENBERG: How does NHTSA effectively address enforcement of speeding, traffic safety regulations, or other operating practices as these pertain to commercial motor vehicle operators?

ANSWER: NHTSA, in cooperation with FHWA, plans to increase commercial motor vehicle enforcement with emphasis on decreasing driver-at-fault crashes by increasing police traffic enforcement against heavy trucks, driving under the influence and implementation of the Commercial Drivers License standards. This will be accomplished through the publication of Commercial Vehicle Enforcement: A Guide For Police Traffic Personnel in March 1991, and operational enforcement training and pilot projects in participating states.

SENATOR LAUTENBERG: What could NHTSA or FHWA do to address or study the economic pressures facing the motor carriers and the impact of these pressures on highway safety?

ANSWER: The primary involvement of NHTSA with the motor carrier industry is through our responsibility for issuing Federal motor vehicle safety standards. Our regulations are issued only after careful evaluation for safety impact and reasonable economic implications for consumers and industry. The rulemaking process affords all interested parties the opportunity for comment in any instance where possible economic consequencies may detrimentally affect financial or other well being. Federal statutes hold the agency to consideration of economic practicability in undertaking any rulemaking action.

Also, NHTSA's operation of the National Driver Register, and service to the new Commercial Driver Licensing system, services motor carrier operators by helping to prevent unsafe vehicle operation by drivers with unsafe driving histories (for example, alcohol or drug impaired driving). Carriers using these services should be able to improve the overall caliber of their commercial vehicle operators, and this should have a positive impact on the safety, and hence the cost, of vehicle operation.

We note that FHWA is closer to many motor carrier issues, since FHWA regulates in-use safety through the Federal Motor Carrier Safety Regulations. We defer to FHWA on the extent to which economic pressures may offset in-use operations.

DRUNK AND DRUGGED DRIVING

SENATOR LAUTENBERG: What efforts do you currently have in place regarding training police officers to detect drunk drivers?

ANSWER: Currently a three-day training program, "Driving While Intoxicated Detection and Standardized Field Sobriety Testing (SFST)" is available to all law enforcement agencies. The Agency assists in the provision of instructor and student materials and, where necessary, provides instructors for the training. The Agency has also developed and provides instructor training to law enforcement officers, so that each agency can develop its own instructors to carry out recruit and in-service training in the detection and apprehension of drunk drivers.

We note that this SFST training is one of the prerequisites for police agencies that wish to enroll in our Drug Evaluation and Classification Program.

SENATOR LAUTENBERG: The budget proposes an expanded program to train police officers to detect drivers under the influence of alcohol. How many States are not participating in the Section 410 program? Why aren't these States participating?

ANSWER: None of the States has become eligible for grants under the Section 410 drunk driving incentive grant program. The final rule implementing the Section 410 Program was published in the Federal Register on January 12, 1990. Since then six States have indicated interest in applying for Section 410 funding (Alaska, Iowa, Indiana, Oregon, New Mexico and New York). All but Alaska have indicated they would require new legislation to qualify. For most States the major impediment to qualifying is the requirement that they must suspend or revoke a license within 15 days (for a 30 percent basic grant) or 30 days (for a 20 percent basic grant) of the DWI offense.

SENATOR LAUTENBERG: What is being done about the increasingly serious problem of drugged driving? (This is mentioned in the budget submission (pp. 6, 55, 62), but actions to be taken are not clearly spelled out.) Explain the "Drug Evaluation and Classification Program."

ANSWER: According to the current research, it is estimated that between 10 and 22 percent of drivers involved in serious crashes have used drugs, either alone or in combination with alcohol. The Agency is finding similar percentages for drivers being apprehended for driving while impaired violations.

In response to the problem of drugged driving, the Agency has developed the Drug Evaluation and Classification (DEC) Program, designed to train police officers to conduct detailed physical diagnostic examinations of suspected drug-impaired persons and obtain compelling evidence to establish that the suspect is impaired by drugs. When certain criteria are met, NHTSA assists the state or local agency in establishing a DEC program through the provision of instructors and materials to train the law enforcement officers to become certified Drug Recognition Technicians.

Under the Agency's sponsorship, DEC programs have been established in 10 States (Arizona, California, Colorado, Florida, Indiana, Nevada, New York, Texas, Virginia, Utah), with more than 85 law enforcement agencies participating. During the period from Fiscal Years 1989 through 1992, the major thrust of our efforts will continue to be directed toward selecting new program sites and training law enforcement personnel to serve as Drug Recognition Technicians.

SENATOR LAUTENBERG: NHTSA is continuing its support of DEC. How successful have these past efforts been? How is NHTSA's efforts used to assist MCSAP officers?

ANSWER: The success of our efforts has been very encouraging. Less than three years ago, this program existed only within a few police agencies in Southern California. It is now in place in ten States, with several more to follow before the end of the current fiscal year. Nearly 900 law enforcement officers have been trained as drug recognition technicians. At all program sites, substantial increases in arrests for both alcohol- and drug- impaired driving have been reported since program inception.

NHTSA's efforts on this program have had an indirect, beneficial impact on MCSAP officers. The FHWA, through the Transportation Safety Institute, arranged for a FHWA staff member to attend the Agency's drug recognition training in October 1988. Subsequently, that individual adapted the NHTSA curriculum materials for MCSAP and other FHWA applications. NHTSA DEC program staff assisted the curriculum adaptation by reviewing and commenting upon the draft FHWA materials.

SENATOR LAUTENBERG: Do you believe that we should seek to reach all police agencies with your drug evaluation program?

ANSWER: No. The drugged driving problem is very real, and the Agency believes that, ultimately, a Drug Recognition Technician (DRT) should be available to access every person apprehended for drug-impaired driving. However, this does not require that every agency have a DRT on staff. Very small municipal agencies, for example, could work cooperatively with the county sheriff's department, county police, or state law enforcement agency. This would mean that if a drug-impaired suspect were apprehended by the municipal officer, the suspect could be taken to the county jail, where a sheriff's deputy who is certified as a DRT would conduct the evaluation. In fact, this is currently the practice in the DEC program sites.

Due to the resources required for this program, especially in terms of personnel, it is very likely that the smaller agencies will not train DRTs. Rather, they will depend on cooperative agreements with larger agencies to provide the services of their certified DRTs as required.

NHTSA is developing a training program in the recognition of drug impairment which the Agency believes should be made available to all law enforcement agencies. This program will assist officers in the identification of those drivers impaired by drugs, so that the officer can request the services of the DRT.

SENATOR LAUTENBERG: How many agencies are able to utilize this program currently?

ANSWER: Thirty-two States and the District of Columbia currently have laws which meet the site selection criteria for the Drug Evaluation and Classification Program. Within these States, all law enforcement agencies meeting certain criteria are eligible to participate. These criteria include, at a minimum, officers who are trained in standardized field sobriety testing, the physical facility in which to conduct a drug evaluation, and certain chemical breath test requirements. Presuming that these criteria are met, the law enforcement agency must have the necessary personnel and fiscal resources to support a program.

Although these agencies would be eligible to participate, in order to become a DEC program site the agency must apply through its State Highway Safety Office and the NHTSA Regional Office.

Currently more than 85 law enforcement agencies in 10 States have established a DEC program.

SENATOR LAUTENBERG: Do You have a waiting list for those agencies that would like to participate in the program?

ANSWER: Not as such. Police agencies that wish to participate in the program are directed to contact their State Office of Highway Safety. The State Office then relays the request to NHTSA via the appropriate Regional Office. NHTSA DEC program staff then conduct a site assessment visit to determine whether the police agency and jurisdiction meet the criteria for acceptance as a training site. At this stage, NHTSA staff frequently uncover problem areas that preclude immediate qualification of the site. Such problems are documented in a Site Assessment Report, which is submitted to all interested parties, along with recommendations for solving the problems. As soon as satisfactory solutions are implemented, training of the initial cadre of candidate drug recognition technicians (DRTs) from the new site is scheduled.

At present, site visits have been completed and assessment reports submitted for two potential new sites. They are the District of Columbia and Columbus/Muscogee County, Georgia. In both cases, NHTSA staff found that remedial training in standardized field sobriety testing was needed prior to qualification. That training is underway in the District of Columbia and will commence for Columbus/Muscogee County, Georgia during May. The Agency expects to initiate DEC training for both sites during the summer of 1990. In addition, discussions expected to lead to site visits are in progress with the States of Rhode Island, Maryland, Minnesota, New Mexico and Oklahoma.

SENATOR LAUTENBERG: Has NHTSA looked into the development of roadside drug testing, to help police identify drug-impaired drivers? Is the technology for such roadside testing currently available? Is it affordable?

ANSWER: NHTSA continues to monitor developments in drug testing technology that might help police identify drug-impaired drivers at the roadside. No such technology appropriate for police use at the roadside currently exists. Accurate drug screening techniques are primarily laboratory methods. These methods rely primarily on analysis of body fluids (e.g., blood and urine) or tissues. These substances present collection problems for police, especially at the roadside. Currently available urine tests that can be used at a physician's office or corporate testing center involve the careful mixing of chemicals, which would not be appropriate at the roadside. Urine tests indicate whether the subject has used drugs within the past few weeks (i.e., is a drug user) and not whether he or she is under the influence at the time of testing. To assist police in identifying drug-impaired drivers the test would have to indicate current use.

Collection of breath or saliva samples would be the most practical for roadside identification of drug use by drivers. However, drug screening tests using these specimens are not currently available and in the case of breath may not be feasible. Also, current drug screening tests (e.g., RIA - radio immune assay) are designed for specific drugs or drug classes (e.g., cannabinoids or barbiturates) and thus a separate test must be performed for each drug or drug class of interest.

SENATOR LAUTENBERG: What are NHTSA's views on my legislation?

ANSWER: The Department supports the concept of license revocation or suspension for convicted drug offenders. As an element of support for the President's drug control strategy, in early March 1990, Secretary Skinner sent letters to each of the Governors encouraging them to advocate the passage of this type of legislation. However, the Department does not advocate Federal highway sanctions as a means of stimulating these laws.

NHTSA staff has already discussed the letters with representatives of the American Association of Motor Vehicle Administrators (AAMVA). Non-driver licensing-related sanctions will be a topic of the International Conference of AAMVA in August 1990.

SENATOR LAUTENBERG: How has the agency used its TEAM funds over the last year?

ANSWER: The FY 1989 TEAM funds were used to support TEAM's awareness, facility alcohol management, and local coalition activities. A small portion was used for administrative and support expenses.

TEAM's public awareness program developed and produced two national "designated driver" campaigns. National PSA's from these campaigns received over $2.2 million in donated prime television time. TEAM also developed a joint campaign with the California Highway Patrol featuring a PSA and numerous print materials.

TEAM's facility alcohol management program conducted nine train-the-trainer sessions for more than 130 facility representatives. TEAM assisted facilities in assessing their alcohol management policies and implementing their TEAM programs. A handbook on responsible alcohol management for public assembly facilities was also developed and distributed .

TEAM provided initial financial support to assist seven local coalitions that use TEAM materials and programs to reduce impaired driving. TEAM also provided national television PSAs and print materials that can be used directly or adapted to include local persons and messages, and provided local public information consultation for coalitions, facilities, and teams.

To support these activities, TEAM funds were used for printing and distribution of PSAs and program materials and to assist regular communications among TEAM members and TEAM program users.

In FY 1990, additional funds will be used to expand TEAM's membership to additional major sports and to increase all its program activities. TEAM plans include additional PSA campaigns that can be adapted to local use, facility alcohol management programs for new sports arenas and other facilities, and additional TEAM activities for local coalition use.

SENATOR LAUTENBERG: What problems have been encountered by the TEAM program?

ANSWER: TEAM is a unique coalition of public and private sector organizations committed to the common goal of reducing impaired driving. All members except NHTSA volunteer their time and resources to TEAM. TEAM's problems are the common ones of coalition and volunteer operations: how to define activities that satisfy all members, how to combine the available resources to carry out these activities, and how to manage the activities to accommodate the interests and constraints of all TEAM members. TEAM has developed effective policies and working relationships to address these problems, as demonstrated by TEAM's successful products.

SENATOR LAUTENBERG: What successes have been achieved?

ANSWER: TEAM's national and local public awareness program has produced ten PSAs and associated campaigns. These PSAs have received over $9 million in donated prime time on national networks and have been seen by hundreds of millions of viewers.

TEAM's facility alcohol management program has been introduced into more that 80 facilities, in 35 States and 5 Canadian Provinces. These include all Major League Baseball parks and most National Basketball Association arenas. More than 20,000 employees have been trained. The program has produced notable changes in facility alcohol service practices. For example, major league baseball stadiums have reduced beer cup sizes, set limits on the number of beers per purchase, established alcohol-free seating sections, and decreased beer vending in the stands.

Seven local TEAM coalitions are now active: Atlanta, Georgia; Detroit, Michigan; Dallas, Houston, and the Southwest Athletic Conference, Texas; Oklahoma City, Oklahoma; and Los Angeles, California. These coalitions conduct a wide variety of traffic safety activities including safe ride home programs, designated driver campaigns, pledges not to drink and drive, and public education activities.

SENATOR LAUTENBERG: What steps have been taken to improve the effectiveness of the TEAM programs?

ANSWER: TEAM's management has improved through the use of small working committees to direct and manage its public awareness, facility alcohol management, and local coalition activities. TEAM's PSA campaigns have improved in quality, quantity, and usefulness to local groups. The International Association of Auditorium Managers (IAAM) is assuming responsibility for TEAM's facility alcohol management program, so that the program can be promoted and adopted more widely by IAAM's member facilities. TEAM has clarified its local coalition operations and is developing an expanded set of materials and programs for use by local coalitions.

SENATOR LAUTENBERG: Should the Federal Government continue to play a role in the TEAM program?

ANSWER: Yes, it should. Through TEAM, NHTSA expands its resources by joining with those from the private sector in activities to reduce impaired driving. TEAM's public awareness, facility alcohol management, and local coalition activities have been successful. This is an excellent example of a successful public-private partnership.

SENATOR LAUTENBERG: Do you think that the states could make this procedure work?

ANSWER: Yes, but to do so most states would have to make very significant improvements in their programs to promptly suspend licenses and to make drunk driving prevention programs self-sufficient. We believe the level of funding available once they qualify (85 percent of the money received in Section 402 funds during fiscal year 1989) offers the states a great incentive to make those improvements.

SENATOR LAUTENBERG: Have any states passed administrative revocation since the enactment of the 410 state grant funds?

ANSWER: Since passage of the 410 grant program, five states have enacted administrative revocation statutes. These states are California, Connecticut, Florida, Maryland and Vermont.

SENATOR LAUTENBERG: How much leveraging of state and private sector dollars do we achieve with the federal 402 state grant funds?

ANSWER: Although the total amount of non-federal funds committed to these program areas is unknown, discussions with State officials lead us to conclude that the total State funds committed to the highway safety programs far exceed the federal funds available under Sections 402 and 403. Often the 403 funds lay the groundwork for new approaches to address existing problems, followed by Section 402 funds as "seed money" to apply these new approaches with States utilizing more of their own funds as those approaches are proven to be effective.

Also, in addition to "leveraging" State and local funds, our Section 402 grants play an important role in coordinating the wide range of State highway safety programs, and in identifying areas for improvement.

SENATOR LAUTENBERG: In your view, would the states replace lost federal 402 highway safety funds if the federal government reduced funding for the project? What has been the history of funding commitments in this area?

ANSWER: Federal money is not operating money for the states. It is seed money intended to stimulate state and local resources into areas which were not previously part of a state or locality's normal responsibilities.

The importance of funding support and federal assistance is illustrated in the occupant protection use area. Prior to 1981, there was virtually no state funding for safety belt or child seat use programs, and no states had safety belt use laws, and only a few had child protection laws. Since that time, the Agency has emphasized occupant protection as a "priority program" under section 402; funds were set aside for child seat programs; regular 402 funding obligations increased considerably; and state, local and private funding increased significantly. All states now have child restraint laws and 34 states and Washington, D.C. have safety belt usage laws. This history seems to indicate that the states and private sector emphasize aspects of highway safety based on funding and program influence of the federal government.

Conversely, those areas which were not designated as "priority" programs (e.g., driver training) have received reduced levels of section 402 funds.

If total 402 funding were reduced, we would expect that many states would not replace that funding in full, which would lead to reduced resources in many important safety programs around the country. We also note that Federal funding for section 402 has not been increased for several years. Given the strong interest of Congress, the Administration and the general public in highway safety issues, we believe it would be a mistake to consider a reduction in support for section 402 activities.

SENATOR LAUTENBERG: Do all States currently utilize the national driver registry?

ANSWER: Only two States (Alaska and Oklahoma) do not use the National Driver Register (NDR) to check on applicants for a driver's license. All States (including Alaska and Oklahoma) provide records of license withdrawal actions for entry in the NDR file.

SENATOR LAUTENBERG: How many of them consult the registry on-line, versus those who continue to communicate by mail?

ANSWER: Fourteen States use interactive access to the National Driver Register (NDR) to obtain immediate (about 7 seconds) responses to their inquiries. Four of the 14 states employ the new Problem Driver Pointer System, and therefore receive driver histories directly from States of Record. The remaining 10 states utilize the states' AAMVANET Communications Systems and receive driver data on file in the NDR. Thirty-five States (including 11 of the 14 interactive States) use a Remote Job Entry (RJE) procedure to communicate with the NDR. States that use RJE communications send their inquiries and file updates via a telephone connection to the NDR computer. A batch of inquiries received one day is processed overnight and the responses are available for retrieval by States the next day. Furthermore, file updates are placed on the file during the nightly batch processing run, thereby making such records available for inquiry much sooner than by mail.

Thirteen States still exchange data by mail. One of these States (Vermont) sends data exclusively on paper documents, and the remaining 12 States send records on magnetic tape through the mail.

SENATOR LAUTENBERG: Are most States utilizing the registry before they issue new licenses, or are most States gaining the information on violators after a license has been issued?

ANSWER: States that access the NDR interactively (on-line) normally receive information on new license applicants prior to granting the license. Twelve of the 14 States presently using interactive service are instant issuance States which issue permanent licenses to applicants over the counter, i.e., while the applicant is present. At this time, instant issuance States represent the principal candidates for interactive access.

States using Remote Job Entry (24-hour service) receive the information prior to license issuance only if they issue all licenses centrally. Central issuance States mail a permanent license usually within 30 days from the date of application, therefore RJE overnight service allows ample time for NDR information to be considered prior to mailing the permanent license.

Central issuance States exchanging data with the NDR by mail may or may not receive information prior to processing the permanent license, depending on a State's internal procedures and mail delays. States relying on RJE and the mail service that are not central issuance States, probably do not receive the information prior to license issuance, in a substantial proportion of cases.

SENATOR LAUTENBERG: What are the obstacles to all the States utilizing the registry in a more timely and effective manner?

ANSWER: Federal law requires that NDR participation by States remain voluntary, except for commercial driver licensing (i.e., under the Commercial Motor Vehicle Safety Act of 1986, States must access the NDR before issuing a commercial driver license). There are no apparent major obstacles to States' utilization of the various levels of improved services available from the NDR. Presently, States are upgrading to one of these services (interactive or RJE) as they implement their commercial driver licensing (CDL) program, therefore the pace of the States' improved NDR participation is currently being influenced largely by their CDL schedules. It is not anticipated that all States will need on-line interactive response capability because not all States issue the permanent license at the time of application. For these States RJE provides a timely response.

SENATOR LAUTENBERG: What can you tell us about how FAA and FRA are utilizing the registry?

ANSWER: Both agencies have proposed procedures in the rulemaking stage for utilizing the NDR. The FAA is now drafting its final rule. According to the Notice of Proposed Rulemaking

(NPRM) the NDR checking process will be triggered by an application for an airman medical certificate. This would occur at the time of the initial medical examination and at all subsequent periodic medical examinations required by the FAA. These are performed at 6-month, one-year or two-year intervals depending on the type of airman certificate held (air transport, commercial, or private).

The FRA's NPRM proposes that railroads issue certificates to operators they have qualified according to the minimum qualifications contained in the NPRM. In establishing a candidate's qualifications, FRA proposes to have the railroad consider prior safety conduct, including the candidate's motor vehicle driving record. FRA proposes that all prospective locomotive operators submit requests to the NDR for a file search, and authorize the information to be furnished to the railroad company.

SENATOR LAUTENBERG: Are all new pilots checked through the registry?

ANSWER: Not currently, however, according to the FAA's Notice of Proposed Rulemaking (NPRM), any individual applying for an airman medical certificate, which is a prerequisite to issuance of an airman certificate, will be checked through the NDR.

SENATOR LAUTENBERG: What about the renewal of pilots' license through the FAA?

ANSWER: Under FAA's proposed rules, all renewals of a pilot license will be checked against the NDR. This will occur for several reasons: medical examinations are required of all airmen at various intervals; examinations require the completion of an application for an airman medical certificate; and the NDR search will be performed against this application.

SENATOR LAUTENBERG: Has there been discussions of expanding the driver registry to include additional information such as conviction on drug offenses?

ANSWER: The NDR already receives information on any license suspended for cause. Thus, whenever a drug conviction results in a license suspension, that information is automatically entered in the NDR. In some States, e.g. Colorado and New Jersey, convictions for illegal possession or use of drugs automatically result in the suspension or revocation of a driver's license, regardless of whether operation of a motor vehicle is involved.

SENATOR LAUTENBERG: What is your view on expanding the registry for this purpose?

ANSWER: Provided that the drug offense resulted in the loss of the offender's driver's license, recording that action in the NDR is consistent with the purpose and function of the NDR and with national drug policies.

SENATOR LAUTENBERG: Will the administration support adopting this lower blood alcohol content level as a uniform national definition of intoxication?

ANSWER: NHTSA supports State efforts to reduce the BAC level to .08 percent. However, the Agency believes its recommendation to the States regarding a national, uniform definition of intoxication should await the outcome of the study we are currently conducting at the request of the Congress.

SENATOR LAUTENBERG: Has NHTSA considered proposing a uniform, national blood alcohol standard for all the States?

ANSWER: Yes, the Agency is giving consideration to doing that. As part of its consideration, the Agency is conducting the study noted earlier. An interim report on the study is to be issued in September 1990. Until that study has been completed, the Agency does not believe it would be appropriate for it to propose a national definition of intoxication.

SENATOR LAUTENBERG: Has your agency taken the Surgeon General's recommendations as a plan for the future such as lowering the allowable blood alcohol concentration from 0.10 percent to 0.04 percent:

ANSWER: As noted earlier, legislation enacted in 1988 requires NHTSA to study the entire issue of BAC limits and to report its recommendations to the Congress. The first phase of this study, an interim report, is scheduled for September 1990. The Surgeon General's recommendation will, of course, be considered in the study. However, until the entire study is completed, the Agency would not want to recommend a Federal standard BAC level.

SENATOR LAUTENBERG: Given the dangerously high fatality rates attributable to drunk driving in this age group, what is your view of that recommendation?

ANSWER: The Agency believes these laws should be implemented because this population is greatly overrepresented in alcohol-related fatalities and because it is illegal to purchase and possess alcoholic beverages by those under 21 in all States.

In addition to Surgeon General Koop, the National Commission Against Drunk Driving and Mothers Against Drunk Driving (MADD) have recommended this legislation. Seven States (Maine, Maryland, New Mexico, North Carolina, Oregon and Wisconsin) have set lower BAC limits for different subsets of the under 21 population.

SENATOR LAUTENBERG: Is NHTSA conducting research on mechanical devices intended to deter drunk driving, such as those devices that require the motorist to perform a task that cannot be performed when drunk? Do you think that these mechanisms hold promise for controlling the recurrent drunk driver?

ANSWER: At this time, NHTSA is not conducting research on performance devices designed to deter drunk driving. NHTSA is involved in research on alcohol breath test devices designed for this purpose. We will continue to monitor developments in the design of performance based devices. If evidence becomes available that new developments have occurred that would overcome the previously identified problems with performance devices (e.g., their ability to discriminate between various blood alcohol levels, how they handle improved performance over time due to practice, and with individual differences in skilled performance), we would consider testing such a device.

NHTSA has investigated performance devices in the past. Our conclusion was that while theoretically feasible, there were numerous technical and measurement issues to be solved. For example, improving the discrimination between various blood alcohol levels and reducing false positives (failing people who should pass the test) while still achieving a low level of false negatives (passing people who should fail). Also, the problem of individual differences in skill has made it impractical to have a universal scoring criterion that would work for everyone. Instead individualized scoring criteria must be used. These problems do not appear likely to be solved in the near future. If an accurate performance device with a universal scoring procedure could be developed it might well have collateral benefits in that it might detect impairment due to sources other than just alcohol (e.g., fatigue or other drugs).

SENATOR LAUTENBERG: How are NHTSA's efforts that train police officers to detect impaired drivers who operate under the influence of drugs coordinated with Operation DIAP activities of FHWA's OMC?

ANSWER: In October 1988, NHTSA arranged for an employee of the Transportation Safety Institute (TSI) to attend drug recognition training in Aurora, Colorado. The TSI employee is the individual responsible for developing similar drug recognition training for commercial motor vehicle safety inspectors, under the auspices of FHWA's Office of Motor Carrier Safety. In March 1989, staff of NHTSA's Drug Evaluation and Classification Program reviewed draft curriculum materials prepared by the TSI employee, and found them to be consistent in content and learning activities with the NHTSA materials.

As far as drug interdiction activities are concerned, the Agency's efforts to train police officers to detect drugged drivers have no direct tie-in. However, because persons who transport drugs frequently also use drugs, it is not uncommon for the apprehension of a drug transporter to be precipitated by an impaired driving stop. Therefore, the Agency's on-going coordination with TSI and the Office of Motor Carrier Safety has an indirect impact on drug interdiction efforts.

SENATOR LAUTENBERG: How does NHTSA and FHWA ensure that there is no duplication of effort?

ANSWER: NHTSA's drug recognition training is open to law enforcement officers who are responsible for detecting and investigating impaired drivers. FHWA, via the Transportation Safety Institute (TSI), provides similar training to commercial motor vehicle safety inspectors. Those inspectors work closely with law enforcement officers, but they carry out significantly different functions. Hence, NHTSA and FHWA efforts are mutually supportive, and not overlapping.

RESEARCH AND DEVELOPMENT

SENATOR LAUTENBERG: What research efforts are being cut out or reduced to absorb the 25 percent cut in R&D?

ANSWER: The R&D budget is not being cut by 25 percent. But rather, there is an increase of $302,000 in the total R&A budget, which includes activities funded by the Highway Trust Fund and the General Fund. Note that the FY 1990 funding availability is increased by $6.2 million when funds carried over from FY 1989 are included. Total funding for R&D activities is as follows:

GENERAL FUNDS	FY 1990	FY 1991	Difference (+ or -)
	(Dollars in Thousands)		
Research and Analysis (R&A)			
Salaries, Benefits, Operating Expenses, and Contracts	$31,922	$29,546	($2,376)
Carryover	6,208	0	(6,208)
Subtotal	38,130	29,546	(8,584)
TRUST FUNDS			
Research and Analysis			
Salaries, Benefits, Operating Expenses, and Contracts	10,901	13,579	2,678
Carryover	0	0	0
Subtotal	10,901	13,579	2,678
TOTAL - R&A			
Salaries, Benefits Operating Expenses and Contracts	42,823	43,125	302
Carryover	6,208	0	(6,208)
Total	49,031	43,125	(5,906)

SENATOR LAUTENBERG: How will this impact highway safety and vehicle safety R&D in support of NHTSA's programs?

ANSWER: As indicated in the answer to the previous question, the changes in funding levels are not of sufficient magnitude to result in significant impacts on the Agency's research program. The table below shows the modest changes requested in each program activity funding level.

	FY 1990 Appropriation	FY 1991 Request
	(Dollars in Thousands)	
Motor Vehicle Research	$13,680	$14,269
Highway Safety Research	3,250	3,606
National Center for Statistics and Analysis	13,500	13,850
Jackson Memorial Hospital	1,968	- 0 -
Subtotal Contract Program	32,398	31,725
Salary & Benefits	8,003	8,540
Travel	134	134
Operating Expenses	2,288	2,726
Subtotal Administrative Expenses	42,823	43,125
Carryover	6,208	- 0 -
TOTAL R&A	49,031	43,125

SENATOR LAUTENBERG: How much research money is involved in "intelligent" vehicle or "intelligent" highway research?

ANSWER: NHTSA plans to spend approximately $2.5 million of our FY91 Crash Avoidance Research budget on "intelligent vehicle" research. This includes the $1 million new initiative in this area plus $1.5 million from our base budget.

er of beers per purchase, established alcohol-free seating sections, and decreased beer vending in the stands.

Seven local TEAM coalitions are now active: Atlanta, Georgia; Detroit, Michigan; Dallas, Houston, and the Southwest Athletic Conference, Texas; Oklahoma City, Oklahoma; and Los Angeles, California. These coalitions conduct a wide variety of traffic safety activities including safe ride home programs, designated driver campaigns, pledges not to drink and drive, and public education activities.

SENATOR LAUTENBERG: How much funding on an annual basis is NHTSA spending to educate consumers in the use of its vehicle crashworthiness reports?

ANSWER: Each year the Agency conducts approximately 30 crash tests of motor vehicles in the New Car Assessment Program (NCAP) to generate comparative crashworthiness data for consumer information. These data are made available through press releases as the tests are completed. The press releases are distributed to all the major news services, consumer organizations, magazines, and many other organizations. The data are then used by many of these organizations in their publications to inform the public of the potential safety of the tested vehicles. In addition, the Agency responds to approximately 15,000 calls from consumers each year through the NHTSA Auto Safety Hotline regarding the crashworthiness test results. The Agency has simplified and standardized the information so that consumers can more effectively use it in purchasing decisions.

The only funds that are used in this activity to inform consumers are the indirect funds to develop the press releases and fact sheets and to respond to inquiries from the public.

SENATOR LAUTENBERG: In the FY 1991 budget request, does NHTSA have the resources, capabilities, and programs planned to conduct the types of research recommended by TRB?

ANSWER: Most of the proposed FY 1991 behavioral research program in Occupant Protection is in the areas recommended by TRB.

Many of the Alternate Occupant Restraint Design recommendations and the Medical and Biomechanics recommendations are being addressed in the Crashworthiness research program. Some of the recommendations are still being considered for incorporation into the Crashworthiness research program. We are now reviewing needs in this area and, if necessary, will develop a plan to address any shortcomings.

SENATOR LAUTENBERG: Is NHTSA proceeding in the research directions recommended by the TRB report?

ANSWER: Yes. The Agency has both current and proposed projects that directly parallel most of the TRB recommendations in the areas of Belt Use Laws and Methods for Increasing Belt Use. For example, NHTSA's projects on enforcement of belt laws, assisting States in the collection of reliable belt use data, and applying marketing techniques to the study of nonuser populations are specifically related to TRB's recommendations.

The Medical and Biomechanics recommendations are addressed in the present Crashworthiness research program. Some of the recommendations concerning Alternate Occupant Restraint Designs are still being considered for incorporation into the Crashworthiness research program.

SENATOR LAUTENBERG: Are there areas or directions not mentioned in the report that NHTSA is pursuing?

ANSWER: Yes. NHTSA is adopting some of the newer techniques of market research to help address specific subpopulations more effectively. The Agency also plans to begin investigations on the misuse of automatic belt systems and the use of manual belts with air bag systems as these systems become more widely represented in the vehicle fleet.

With respect to the Medical and Biomechanics recommendations, the Crashworthiness research program is also working on the biomechanics of head, neck, thoracic and lower extremity injuries. With respect to the Alternate Occupant Restraint Design recommendations, the Crashworthiness research program is working on advanced protection in side impact crashes, rollover crashes, and higher speed frontal crashes.

SENATOR LAUTENBERG: What obstacles does NHTSA face in carrying out the recommended research?

ANSWER: The Agency is not aware of any obstacles to conducting its behavioral research program. However, as belt use increases, additional gains appear to require disproportionately more effort than similar gains from a lower base. While implementing the TRB recommendations is in the right direction, that research should not be expected to provide major breakthroughs in belt use. Substantive gains in belt use can only be expected from extensive program activities, especially enforcement and public awareness programs, sustained over a period of many years.

With respect to both the Medical and Biomechanics recommendations and the Alternate Occupant Restraint Design recommendations, the Crashworthiness research program is faced with a vast array of unknowns regarding human physiology under the influence of powerful forces felt in fractions of a second. Finding the answers to these questions, and what can be done to apply the answers to produce safer vehicles, will require time, inspiration, and diligence, as well as money. Recent progress in the crashworthiness of vehicles shows that, while it is difficult, it is possible to develop solutions to the complex problems of improving the crashworthiness of passenger cars, light trucks, and vans for people of all ages, sizes, and states of strength or fragility in side impact crashes, rollover crashes, and higher speed frontal crashes. We are now in the process of reviewing needs in these areas and, if necessary, will develop plans to address any shortcomings.

SENATOR LAUTENBERG: Does NHTSA maintain that there is adequate biomechanical data available to understand, and protect against, disabling injuries, i.e., head, neck and spinal column trauma? What other data would be helpful?

ANSWER: The mechanical impact conditions surrounding head, neck, and spinal column trauma are quite varied and complex, and the scientific community's understanding of the conditions and the critical thresholds which, if exceeded, cause injury are rudimentary at best. Increased biomechanical research activities in impact trauma which investigate the mechanisms of injury and relate mechanical conditions to the observed severity of injury would accelerate NHTSA's ability to monitor, control, and affect the crash environment. In addition, current trauma categorization techniques do not fully account for long-term physical and mental impairment, especially in the head, neck, and spinal injury areas. We are now in the process of reviewing needs in this area and, if necessary, will develop a plan to address any shortcomings.

SENATOR LAUTENBERG: Are existing U.S. research facilities and current programs designed to provide such data?

ANSWER: There are several U.S. research facilities that are funded by NHTSA that have as one of their primary research orientations the study of the biomechanics of impact trauma. NHTSA is also funding several additional institutions to develop their physical and personnel capabilities to allow them to pursue research studies in automotive crash trauma. The combination of these research facilities and programs addresses NHTSA's most pressing research needs, but may require some new emphasis as more is learned about long-term physical and mental impairment.

SENATOR LAUTENBERG: Are research budgets and contracting authority adequate to conduct a program to provide the needed data?

ANSWER: Current budgets and contracting authority are consistent with historical levels of funding for these activities, and are adequate to support our current rulemaking programs. NHTSA continues to make progress in impact trauma research and data collection, and enjoys the support of programs supported by the Centers for Disease Control.

SENATOR LAUTENBERG: What could be done to obtain needed biomechanical data?

ANSWER: A broader community of researchers working in this field with longer term financial support would enhance the availability of biomechanical data. Current funding from all sources has kept only a minimum number of truly dedicated researchers active in Impact Trauma Research, and has done little to bring new talent into the field. It would be useful if other institutions provided support for developing the further physical testing capacities and staff at interested and capable institutions.

SENATOR LAUTENBERG: How could NHTSA work more cooperatively with other organizations such as General Motors to obtain better data?

ANSWER: The fact that various scientific organizations are pursuing the same research topic, but have different hypotheses and technical approaches that they are investigating, is not indicative of an uncooperative situation but rather a dynamic and vibrant scientific field of endeavor. The approach for obtaining better data is not seen as dividing up the work effort but should be directed toward stimulating even more effort from the current participants and encouraging interested and affected organizations to begin participating in and funding trauma research. It is only with such broad-based and continued, long-term support that more and better data can be obtained and ultimately utilized for auto safety needs.

NHTSA established the Motor Vehicle Safety Research Advisory Committee in order to facilitate communication of research direction and findings, particularly between government and industry. This committee has been successful in doing so in the arena of basic research supporting traffic motor vehicle safety improvement without compromising the near-term programs of either institution.

SENATOR LAUTENBERG: Cost and benefit studies for highway safety programs will be increasingly important in deciding what to recommend for further development or implementation. Does NHTSA have adequate data on injury, disability, and the associated costs to perform these studies? If yes, when will the data be available and how will it be used? If not, what type of research or program is needed, at what cost, and in what timeframe to provide the needed data?

ANSWER: The Agency agrees that costs and benefits are important components of decisions on further development and implementation of highway safety programs. Since the early 1970's, the Agency has been actively working to develop up-to-date estimates of the effects of injuries resulting from motor vehicle crashes. However, this is a complex problem that is being addressed on a continuing basis, in order to keep up with changes in the safety picture resulting from new vehicle technology, such as improved occupant restraints, and from new medical technology that has changed the likely outcome of many injuries.

The Agency has adequate data on this subject, but is continuing to obtain and analyze new data analyses of injury, disability, and their impacts. New information will be available on an ongoing basis. Recent and ongoing programs are described below.

The most recent product of the Agency's efforts to develop data on the socioeconomic impacts of injuries was a report to Congress, prepared under NHTSA and Centers for Disease Control sponsorship, "Cost of Injury in the United States." This report includes data on injury incidence, the economic costs resulting from injuries, sources of payments, and potential savings that might result from injury prevention measures, as well as other related topics. The Agency is currently working to incorporate the relevent data into its regulatory analysis and priority-setting activities.

An effort currently underway, "The Development of an Impairment Index for Traumatic Injuries", addresses the development of data concerning disability. In this effort, the functional impairment that can be expected for motor vehicle related injuries will be estimated. When these estimates have been developed, they will be used with the Agency's incidence data to determine which injuries have the greatest long-term effects. An effort that will shortly be underway is concerned with the socio-economic impacts of head injuries. In addition to the Agency's efforts, agency staff are monitoring the work of others in the field, in order to minimize any possible duplication of effort.

SENATOR LAUTENBERG: What is the status of the current experimental test that NHTSA is conducting on antilock brakes for heavy trucks? What preliminary data is available on test results?

ANSWER: The last of the 200 antilock brake-system-equipped test tractors was placed in operational service in July 1989. By

January 31, 1990, the 200 test tractors in the fleet evaluation had accumulated over 16 million miles of travel. Maintenance data, as well as data from the on-board recorders monitoring system operation and frequency of use, continues to be routinely collected. No major or systematic problems have occurred to date.

Fifty antilock-equipped test trailers will be added to the program in late 1990/early 1991. These test vehicles will also be equipped with on-board recorders to monitor system operation and frequency of use. Maintenance data will be collected as well.

The Agency is preparing a report to Congress on the subject of heavy truck brake system performance including antilock. The report is scheduled to be delivered to Congress by January 31, 1991. Preliminary information from the field evaluation will be an integral part of that report. The complete report detailing the results of the tractor portion of the field evaluation will be available in the fourth quarter of 1991. The report describing the results relative to trailers will follow in the third quarter of 1993.

SENATOR LAUTENBERG: What is NHTSA doing now to develop and foster technology to make highways and vehicles safer for elderly drivers?

ANSWER: The application of advanced electronic technology to motor vehicles is the logical next step towards improving the crash avoidance capabilities of these vehicles. Crash avoidance can be greatly improved by the use of advanced technology to help drivers better sense impending danger, sense lapses in their judgement, and even compensate for some of their errors. Although the NHTSA intelligent vehicle program does not specifically focus on any particular class of drivers, the Agency is aware of the potential for such technology to provide significant safety and mobility benefits to older drivers by helping them with critical driving tasks which cause them difficulties, e.g., staying within lanes, merging into traffic, switching lanes, and travelling at night.

SENATOR LAUTENBERG: How much money is in your 1991 budget to further develop and foster such technologies?

ANSWER: NHTSA plans to spend approximately $2.5 million of our FY 1991 Crash Avoidance Research budget on "intelligent vehicle" research. This includes the $1 million new initiative in this area plus $1.5 million from our base budget.

SENATOR LAUTENBERG: Could you effectively spend more dollars for R&D on elderly safety technologies?

ANSWER: We believe that the requested funds for FY 1991 will be sufficient. Our intelligent vehicle program will address technology that can help the elderly overcome the driving deficiencies that come with age and will ensure that, in providing assistance to drivers, the in-vehicle control/display systems will be matched to human capabilities so that drivers are not overloaded, distracted, or given false signals of danger. This is especially critical in the case of elderly drivers.

The Agency will be focusing on the development of evaluation protocols for assessing the safety impact of automotive devices and systems. Programs will be initiated in FY 1991 to establish direct and indirect visibility requirements, to define drivers capabilities with respect to warning signals, and to develop measurement techniques for assessing driver visual and motor workload. We will also begin to evaluate selected warning, vision enhancement, and/or vehicle control system hardware to address the major identified crash avoidance problems.

SENATOR LAUTENBERG: What safety devices do you believe have the greatest potential for making highways and vehicles safer for elderly drivers?

ANSWER: We believe that the technologies with the greatest potential are: advanced automotive electronics and communications systems which provide warning signals for blind spot and obstacle detection; perceptual enhancements such as head-up displays and systems to improve night vision; and control enhancements such as antilock brakes. These technologies may be able to extend the mobility of older drivers beyond what is possible today without compromising safety.

SENATOR LAUTENBERG: When do you anticipate these devices will be available?

ANSWER: Some of these devices, e.g., antilock brakes, head-up displays, and blind spot detectors, are commercially available today. Additional warning, perceptual enhancement, and control enhancement systems are expected to be commercially available within the next 5-10 years. The FY 1991 advanced technology initiative will allow the Agency to expand its assessment of the performance, reliability, failure modes, and consequences of these and other intelligent vehicle hardware systems being developed for use in motor vehicles, and to develop the tools needed to assess their safety impacts.

SENATOR LAUTENBERG: Have you developed any preliminary cost estimates for equipping vehicles with on-board safety devices? If so, what are these costs?

ANSWER: The majority of the technology is in the concept or development stage so it is difficult to estimate the eventual cost to add such devices to motor vehicles. Some insight, however, can be obtained from the suggested retail prices for antilock brakes ($925) and head-up displays ($295) on 1990 GM automobiles. These prices could be expected to decrease as either production increases or designs are simplified. The eventual costs will be greatly influenced by the hardware and software costs required to ensure a high degree of reliability and that the systems fail safely.

SENATOR LAUTENBERG: Since the roads built today will be used well into the next century, what could be done -- what should be done -- to make new roads safer for elderly drivers now and in the future?

ANSWER: NHTSA is working cooperatively with FHWA on the Department's program on intelligent vehicle/highway systems. NHTSA's primary contribution to this program is in improving highway safety by enhancing the vehicle's basic crash avoidance characteristics as well as ensuring an optimum match between the capabilities of the driver and the intelligent vehicle systems. FHWA would be in a much better position than NHTSA to speak authoritatively on the future roadway improvements that are contemplated to enhance the safety of older drivers. However, the development and implementation of roadway-to-vehicle communications systems should be of great potential value to older drivers.

Examples include in-vehicle display of signs, assistance with route selection, and navigational guidance.

RULEMAKINGS

SENATOR LAUTENBERG: How many dockets or pending regulatory actions are now before NHTSA? How big is the backlog?

ANSWER: As of March 31, 1990, the Agency had a total of 130 pending actions. Of these actions, 28 are petitions that have not been granted or denied within 4 months of receipt, and thus would be considered overdue.

Each petition that is granted and involves rulemaking is given a schedule with specific milestones to be met by specific dates. Generally, we strive to complete each rulemaking action within 18 months of its initiation. This represents a 25 percent reduction in processing time from the 1987-1989 average. In addition to NHTSA's formal procedures, we have instituted monthly Review and Analysis meetings to review current status and progress of NHTSA programs and rulemaking. This helps to ensure that specific milestones are met, technical problems are identified, and problems are resolved in a timely fashion.

SENATOR LAUTENBERG: Please provide a list of these for the record and their expected schedule for completion.

ANSWER: Here is a list of major pending regulatory actions and their expected schedule for completion.

PASSENGER CARS	
Complete Rulemaking on Passenger Car Side Impact	1990
Regulatory Decision on Interior Head Protection	1991
Regulatory Decision on Door Retention Components and Ejection Reduction	1992
LIGHT TRUCKS & VANS	
Light Trucks: Complete Rulemaking on: Automatic Crash Protection, Static Side Impact, and High Mounted Stop Lights	1990
Rollover: Regulatory Decisions on Potential Crash Avoidance Standards	1990
HEAVY TRUCKS	
Heavy Trucks: Regulatory Decisions on Stopping Distance, Conspicuity and Underride	1991
Completion of the Anti-Lock Field Study	1991
Regulatory Decision on Heavy Truck Anti-Lock Requirements	1992
CHILD PROTECTION	
Child Safety: Regulatory Decisions on Newborn Dummy, Child Seat Testing	1990
Regulatory Decision on Child Seat Registration	1990
School Buses: Regulatory Decisions on Mirrors, Window Retention, Body Joint Strength, and Flammability. Also, Complete Rulemaking on Stop Arms	1990
OTHER MOTOR VEHICLE INITIATIVES	
Complete Rulemaking on Light Truck Fuel Economy Standards for Model Year 1992 and for Model Year 1993 through 1994	1990
Regulatory Decision on Fuel Economy Standards Beyond Model year 1994	1991

SENATOR LAUTENBERG: Are final rules now published for head restraints and rear seat belts?

ANSWER: In September 1989, a final rule was issued requiring head restraints in light trucks and vans with an effective date of September 1, 1991. In November 1989, a final rule was issued requiring rear seat lap/shoulder belts in light trucks and vans with an effective date of September 1, 1991.

SENATOR LAUTENBERG: What about the rules for side impact protection? I understand that these rules have been pending since 1979! Proposed rules for passenger cars were published back in January 1988. Have we seen a final rule in this area yet? When can we expect final rules?

ANSWER: The agency plans to issue a final rule providing improved side impact crash protection in passenger cars this summer.

SENATOR LAUTENBERG: What is the average duration for OMB to review your announcements of notices of proposed rulemaking and your final rules?

ANSWER: In 1989, OMB cleared 32 actions with an average time of one month.

SENATOR LAUTENBERG: What specific vehicle related factors has NHTSA identified that cause light truck rollovers?

ANSWER: NHTSA has found that many driver, roadway, environmental and vehicle factors can contribute to the occurrence of rollover crashes. Vehicle factors that affect the stability and rollover involvement of light vehicles include: center-of-gravity height and fore/aft position, wheel track width, wheelbase and suspension and tire characteristics.

SENATOR LAUTENBERG: Of the factors identified, which ones cause light trucks to rollover more often than passenger cars?

ANSWER: The fundamental vehicle factor that is generally different for light trucks, compared with passenger cars, that appears to contribute to their higher propensity to roll over is the height of the center of gravity. Identifying the relative influences of this and other factors is the goal of the Agency's ongoing research and accident data analyses.

The analyses completed to date indicate that all of the factors identified in the previous answer may affect vehicle handling and stability characteristics. Handling and stability, in turn, influence the likelihood of a vehicle being involved in a rollover.

As part of its analyses, the Agency is examining those factors that are directly related to "rollover stability", i.e., the likelihood that a vehicle involved in a single vehicle accident will roll over. However, while these factors are obviously important in determining the risk of a rollover, the Agency believes that the overall risk of a vehicle's being involved in a crash that results in a rollover is also greatly influenced by its likelihood of being involved in single vehicle accidents.

There are two factors generally involved in rollover accidents: the loss of directional stability and the propensity to roll over when the vehicle is in an unstable condition. Loss of directional stability is a function of vehicle handling and tire characteristics, and is often significantly affected by road conditions. It typically results in a situation where the vehicle is skidding sideways or spinning and is exposed to large lateral tire forces. At that point, the height of the center of gravity seems to be a critical factor.

SENATOR LAUTENBERG: What additional rollover research does NHTSA need to do?

ANSWER: In order to develop the technical basis for a rollover safety standard to address the crash avoidance issues, the following research (all of which is underway) needs to be completed:

- o Crash data analyses to better understand how driver, vehicle, environmental and roadway factors influence rollover.
- o Full-scale vehicle testing to confirm findings from crash data analyses and computer models.
- o Determination of the influence of vehicle design parameters on rollover.
- o Development of appropriate test procedures and equipment for a rollover standard.

Additional crashworthiness research is required in the areas of improved test procedures, computer modeling enhancements, development of injury criteria, and development of countermeasures. The Agency has developed a rollover test device (RTD) with which to conduct tests for evaluating both the structural performance and occupant protection provided by a vehicle. The current testing with the RTD represents a "tripped" rollover. This rather common type of rollover happens, for example, when a vehicle, sliding sideways, impacts a curb or ditch that causes it to roll over. A preliminary review of accident data shows that other crash modes are also associated with a substantial number of rollover accidents. In-depth studies of accident data are required to define other suitable test procedures for the RTD in order that the diversity of occupant kinematics and resulting injuries can be investigated. Also, accident data studies are needed to identify required injury criteria from which to evaluate occupant protection in rollover crashes.

Computer simulations are used for evaluating occupant kinematics during a rollover crash. Additional research is required for enhancing these computer models. The current Federal Motor Vehicle Safety Standard (FMVSS) No. 216, "Roof Crush Resistance," specifies a quasi-static crush test procedure from which to evaluate the roof structure. Given that rollover is a dynamic and very complex event, more research is required to determine if a better component procedure can be developed and, therefore, to determine if an upgrade to the test procedure specified in FMVSS No. 216 are necessary and feasible.

Finally, more research is required in countermeasure development. Ongoing activities that show promise are the development of glass-plastic glazing and improved door latches. These two countermeasures could significantly reduce occupant ejection during rollover. Also, more research is needed for reducing injuries resulting from occupant head contact to the upper interior surfaces of the vehicle.

SENATOR LAUTENBERG: When does NHTSA expect to issue a proposed rulemaking? A final rule(s)?

ANSWER: NHTSA expects to complete the essential part of its rollover research program in late 1990, and will make a rulemaking decision at that time. If the decision is to propose one or more motor vehicle safety standards, it would probably be done in 1991.

Depending on the complexity of any proposed standards, controversy during the rulemaking process, and other factors, a final rule could follow in 1992 or later.

SENATOR LAUTENBERG: Has NHTSA initiated any proposed rulemaking(s) to protect against rollovers? If so, what is being done? What are the timeframes for these rulemakings?

ANSWER: Yes. As an initial step, NHTSA issued an NPRM in November 1989 to extend roof-crush requirements to light trucks and vans.

Other aspects of rollover are more complex and have required considerable research. The Agency granted a petition for rulemaking in 1988, and outlined our research program. Vehicle rollover and occupant protection in rollovers are complex phenomena involving vehicle parameters, occupant dynamics, roadway characteristics and driving patterns. On-going Agency research is directed at addressing these areas. On the basis of this research, we expect to make a rulemaking decision in late 1990. If appropriate, one or more rulemaking actions would be initiated at that time.

A typical timeframe for a major rulemaking action is that development of the proposal follows within a year of completion of the supporting research. Public comment and consideration of such comments require from six months to a year. If additional research or testing is required as a consequence of the consideration of public comments or other new developments, that may also take at least six months and sometimes much longer. Development and clearance of the final rule may take from several months to one year depending on how much it is changed from the proposed rule.

SENATOR LAUTENBERG: What is the current status of rulemaking to extend roof crush requirements to light trucks?

ANSWER: On November 2, 1989, a Notice of Proposed Rulemaking (NPRM) was issued. Currently, the Agency is analyzing the comments on the NPRM.

SENATOR LAUTENBERG: When do you expect to issue a final rule on roof crush?

ANSWER: We expect to issue a final rule in the summer of 1990.

SENATOR LAUTENBERG: Has rulemaking been initiated to require vehicle manufacturers to install the center high-mount stop lamp in light trucks?

ANSWER: The Agency is developing a rulemaking proposal to require center high-mounted stop lamps in light trucks and vans.

SENATOR LAUTENBERG: When do you expect to issue a final rule requiring such stop lamps in light trucks?

ANSWER: The Agency expects to issue a Notice of Proposed Rulemaking before the summer of 1990. We cannot estimate when the next phase of the process might occur until we have considered all comments to our current proposal.

SENATOR LAUTENBERG: Since light vans are now widely used the same way cars are, for personal and family transportation, what justification is there for any regulation to apply to cars and not to light trucks and vans?

ANSWER: It is NHTSA's policy to provide the same safety assurances for light trucks and vans as are required for passenger cars. Consistent with statutory requirements of the Act, the Agency has and is taking action to extend the passenger car standards to light trucks and vans and to address special safety issues regarding these vehicles. While the actual safety record of light trucks is actually identical to passenger cars, NHTSA believes these actions may further improve that record.

Due to the growing use of light trucks and vans for personal transportation, NHTSA has made many standards that originally applied only to passenger cars, applicable to light trucks and vans. These include the requirements for head restraints and rear seat lap/shoulder belts. The Agency has also proposed that many other passenger car standards be extended to light trucks and vans. These include side door strength (FMVSS No. 214), roof crush resistance (FMVSS No. 216), and automatic crash protection (FMVSS No. 208).

The National Traffic and Motor Vehicle Safety Act of 1966 requires that NHTSA establish Federal motor vehicle safety standards that protect the public against an unreasonable risk of death or injury. Further, the Act requires that any standard be reasonable, practicable, and appropriate for the particular type of motor vehicle for which it is prescribed.

There are some instances in which certain types of light trucks are structurally different from passenger cars, or used for notably different purposes. The Agency has long recognized the role different types of vehicles play on U.S. roads. That is why, in some instances, some standards have applied to certain vehicle types, but not to others.

SENATOR LAUTENBERG: Do you intend to extend your anticipated rules for side impact protection to light vans and trucks?

ANSWER: In December 1989, the Agency issued a Notice of Proposed Rulemaking proposing to extend the present side impact protection (FMVSS No. 214, "Side Door Strength") to light trucks and vans. The proposed effective date is September 1, 1992. The comment period closed on February 20, 1990, and the Agency is reviewing the comments and conducting analyses to determine the next rulemaking action.

In August 1988, the Agency issued an Advance Notice of Proposed Rulemaking (ANPRM), seeking comments on a variety of issues including a dynamic test for light truck and van side impact occupant crash protection. The Agency expects to issue a dynamic side impact final rule for passenger cars this summer. Based on the responses to the August 1988 ANPRM, Agency research, and evaluation of the passenger car experience with the dynamic standard, we will consider a dynamic side impact crash protection requirement for light trucks and vans. However, our first priority is to finalize the upgraded side-impact standard for passenger cars and assure its orderly implementation.

ADMINISTRATIVE ISSUES

SENATOR LAUTENBERG: NHTSA and FHWA share some safety program responsibilities, e.g. programs affecting pedestrian safety, and have some common interests, e.g. human engineering. In what research and/or program areas are the two agencies actively cooperating?

ANSWER: NHTSA cooperates with FHWA on a number of programs and on-going research projects. Our joint safety programs include: 1) the Commercial Vehicle Enforcement Pilot Project (CVEPP) aimed at improving enforcement techniques for detecting violations of motor carrier safety regulations; 2) technically assisting FHWA and the states in supporting the determination of national standards for obtaining commercial driver licenses, the creation of a Commercial Driver License Information System (CDLIS), and promoting state adoption of these standards; and 3) a pedestrian safety demonstration project aimed at promoting pedestrian safety at the state and community level through grant programs, research and development, technology tranfer, and promotional activities. Research projects being performed in close cooperation with FHWA include work on the Intelligent Vehicle Highway System (IVHS) program; research into heavy truck braking, handling and stability; enhanced heavy truck crash data collection and analysis; the development of an advanced driving simulator; and joint projects in human factors research.

SENATOR LAUTENBERG: What specific mechanisms are used or planned to continue and improve cooperation between the two agencies?

ANSWER: Effective communication and coordination between NHTSA and FHWA is pursued in a variety of ways. Formal meetings between key NHTSA and FHWA staff are held periodically to discuss current and planned Agency activities. Working groups meet on a more frequent basis to discuss heavy truck safety, the Intelligent Vehicle Highway System (IVHS) program, and the advanced research driving simulator. With respect to motor vehicle regulation, relevant proposals for motor vehicle safety standards are reviewed by FHWA. Finally, the respective Agency roles are defined under formal arrangements in the areas of speed enforcement and Section 402 program administration.

SENATOR LAUTENBERG: How involved has NHTSA been in FHWA's truck related rulemakings? For example, has the agency commented on FHWA's rulemakings on the Commercial Driver's License?

ANSWER: NHTSA has continuing involvement in FHWA's truck-related rulemaking. NHTSA participated in a series of meetings held during the mandated review and revision to the Federal Motor Carrier Safety Regulations (FMCSR) in the late 1980's. NHTSA also had substantial input into the FHWA's Commercial Driver License rules regarding blood alcohol concentration level for commercial drivers and the establishment of a commercial drivers licensing system. In fact, during much of the time when FHWA was developing their CDL proposals, NHTSA staff were detailed to FHWA's Office of Motor Carriers to provide expertise and support.

SENATOR LAUTENBERG: Did NHTSA have any input into FHWA's notice of proposed rulemaking on truck access and if not, why not?

ANSWER: NHTSA did not supply any comments to FHWA's proposed rulemaking on truck access since we had little to offer with respect to the truck routing issues under consideration. That rulemaking focused on specific roadways and local conditions. NHTSA's small field staff (located in 10 regional offices) would not be able to evaluate those factors.

SENATOR LAUTENBERG: What steps has the agency taken to improve its working relationship with FHWA and to more fully integrate truck and roadway safety into its own safety agenda?

ANSWER: While NHTSA believes it has a good working relationship with FHWA, we also recognize there is room for improvement. Truck and roadway safety is and has always been an important part of NHTSA's program as they relate to regulating motor vehicles and through our traffic safety activities. However, efficiency demands that we try to avoid duplicating the work of FHWA as they address the safety of motor carrier operations. Both NHTSA Administrator Curry and FHWA Administration Larson have placed a high priority on coordination, and the number of interagency meetings and projects between the two Agencies has increased considerably over the past year.

SENATOR LAUTENBERG: With respect to promoting commercial motor vehicle safety, how does NHTSA work with FHWA's OMC work in:

- accomplishing the objectives of MCSAP;
- promoting the enforcement of traffic and speeding regulations pertaining to commercial motor vehicles;
- improving driver logs and hours of service regulatory compliance; and
- promoting drug awareness and drug interdiction activities of commercial motor vehicle officers?

ANSWER: A joint NHTSA/FHWA program to develop new strategies aimed at reducing commercial vehicle crashes has been initiated. A cooperative NHTSA/FHWA Commercial Vehicle Enforcement Pilot Project (CVEPP) is presently underway in seven jurisdictions. The first phase of this project produced Commercial Vehicle Enforcement: A Joint NHTSA/FHWA Guide For Law Enforcement Managers, which focused on truck safety information and programs. The second phase of the project included coordination between the CVEPP agencies and the seven jurisdictions. Recommendations for possible enforcement enhancement procedures were suggested at this time. Phase three, which is now underway, involves implementing some of these recommendations. These efforts include training of highway patrol, drug interdiction techniques, hours of service restrictions, and public awareness and safety campaigns.

SENATOR LAUTENBERG: What additional roles could NHTSA play in assisting FHWA in implementing the MCSAP? How could a strengthened Federal truck safety effort be promoted by increased cooperation and coordination between NHTSA and FHWA? How will this be accomplished and how does NHTSA's FY 1991 budget address this?

ANSWER: NHTSA does not believe there are any additional roles it should play in implementing MCSAP. In order to facilitate the implementation of heavy truck safety programs and planned amendments to the heavy motor vehicle standards, NHTSA is working with FHWA and RSPA to prepare a departmental heavy truck safety plan. The document will incorporate the heavy truck safety initiatives of the three Agencies in an effort to provide a comprehensive plan to supplement NHTSA's own internal safety plan, and avoid duplicative departmental efforts, facilitate research and rulemaking. The plan will also provide the private sector and state and local governments with the department's strategy for implementing heavy truck safety initiatives over the next few years.

VEHICLE STANDARDS, DEFECTS,

SENATOR LAUTENBERG: What has NHTSA done to promote the public awareness of the need to properly maintain the safety-critical components of vehicles?

ANSWER: NHTSA has been concerned over the years about the awareness of vehicle owners to maintain their vehicles in safe operating condition especially between inspections. To that end, NHTSA published a brochure in June, 1979 entitled Why Citizens Should Be Interested in Motor Vehicle Inspection. Since 1979 NHTSA has provided copies of these brochures upon request to State personnel and to interested citizens.

Recently, NHTSA has provided a financial grant to the American Association of Motor Vehicle Administrators (AAMVA) to develop guidelines for the States to improve and make more effective existing Periodic Motor Vehicle Inspection (PMVI) programs, and to encourage the integration of PMVI and Emissions Inspection programs. A proposed component of this plan is the development of a universal public information document which will inform and educate the public about motor vehicle inspection and maintenance. NHTSA staff is working with AAMVA in the development of the plan which will cover the development of guidelines covering this and other program components.

SENATOR LAUTENBERG: Does NHTSA agree that it should encourage States to adopt periodic motor vehicle inspection programs? If so, what is it now doing?

ANSWER: NHTSA strongly supports periodic motor vehicle inspection programs, and is directing its efforts at States with PMVI programs as well as States without PMVI programs. The Agency is working with AAMVA through a financial grant to develop a plan to improve PMVI effectiveness. One component of the plan would be the publication of guidelines to improve existing PMVI programs. Another component of the plan would be directed at non-PMVI States to encourage them to consider the benefits of a PMVI program.

SENATOR LAUTENBERG: Does NHTSA have any plans to facilitate information sharing among States regarding experience with inspection programs?

ANSWER: State information sharing about experience and knowledge covering inspection supervision, inspection criteria and procedures, modern inspection equipment, etc., is a concern of the ad hoc committee established by AAMVA to develop a plan to improve PMVI effectiveness. NHTSA plans to facilitate information sharing by working with AAMVA to include a strategy in the plan for developing specific procedures for providing inspection information to all PMVI States, and selective inspection information to the non-PMVI States.

SENATOR LAUTENBERG: NHTSA's FY 1991 budget submission requests an increase of $9 million in section 403 highway safety programs research funds. Would any of these funds be used to support research and information dissemination on ways to improve State periodic vehicle inspection programs?

ANSWER: NHTSA's primary concern is that States have available guidelines which will help them improve their PMVI programs, or help non-PMVI States establish PMVI programs. NHTSA provided a grant to AAMVA for section 403 funds to accomplish this purpose.

New inspection equipment technology is available on the market today and the manufacturers of that equipment are demonstrating the equipment and its uses in conjunction with emissions inspection equipment technology. The availability, functions and uses of this equipment are part of the scope of information sharing that AAMVA's ad hoc committee is considering in developing the plan to improve the effectiveness of PMVI programs.

SENATOR LAUTENBERG: How effective has your program been since the passage of the Truth in Mileage Act of 1986?

ANSWER: The provisions of the Truth in Mileage Act of 1986 that required mileage disclosure on state title documents did not become effective until April 29, 1989. All states, with the exception of Kansas, requested and were granted extensions of time beyond that date to change their titling systems to comply with these provisions. These justifications were warranted by the fact that most States require legislative or other major changes to permit compliance with the Federal program. NHTSA is providing assistance where requested to make these changes. Many of the extensions of time run through 1990 and into 1991. Because of this transition period, the effectiveness of these provisions cannot be measured.

SENATOR LAUTENBERG: Recognizing that the 1986 law elevated odometer tampering from a misdemeanor to a felony, what more can be done to deter this activity, enforce the law, and punish offenders?

ANSWER: The problem of odometer fraud is being attacked at both the Federal and State levels. NHTSA is continuing its aggressive enforcement program, placing emphasis on investigating felony violations that have occurred since enactment of the 1986 law for prosecution by the Department of Justice. Criminal felony convictions with meaningful sentences that receive publicity help deter others from violating the law.

NHTSA is also actively engaged in helping states strengthen their own odometer programs in recognition of the fact that odometer fraud is too large for solely a Federal response. In fact, odometer tampering often involves strictly intrastate fraud, and thus must be deterred by a state-level program. During the past year, four states were provided with NHTSA funding assistance in order to enhance their enforcement programs and the FY 1991 program will continue to provide technical assistance to state efforts, and to build consumer awareness of odometer fraud and consumer rights.

SENATOR LAUTENBERG: How will you manage the increased number of cases with no increase in funding or staff resources?

ANSWER: The goal is to conduct investigations more efficiently. The Office of Defects Investigations (ODI) has been organized to form a number of technical review groups to support individual investigators. By taking better advantage of previous investigation experience and peer investigators expertise in certain areas, NHTSA intends to speed up planning for investigations and final decisions to proceed once information is in hand.

ODI is also providing additional support to individual investigators through the increased use of engineering co-op students from local universities. Modest increases in the contract program over the past 2 years have allowed NHTSA to provide a limited amount of additional support to conduct field investigations and other support activities. This level of effort will continue.

SENATOR LAUTENBERG: What is the current caseload of an engineer-investigator?
ANSWER: The average is about nine active investigations per investigator although the number can vary substantially as a function of complexity of investigations and the experience of each investigator.

SENATOR LAUTENBERG: What do you anticipate it will be in 1991?
ANSWER: The average is expected to increase slightly in 1991, although the specific answer depends on how many new investigations are opened and closed in fiscal year 1991; this is hard to predict.

SENATOR LAUTENBERG: What is your target timeframe for conducting a defect investigation?
ANSWER: Most investigative activity takes place at the Preliminary Evaluation and Engineering Analysis stage. Our goals for completing those investigations are 4 months and 18 months, respectively.

As previously stated, we have worked very hard at reducing this. At present, the average elapsed time for a Preliminary Evaluation is 2.5 months, for an Engineering Analysis it is 13.7 months.

SENATOR LAUTENBERG: How successful have you been at achieving that target timeframe?
ANSWER: Despite opening more investigations, the percentage of investigations exceeding those targets has declined. The following table lists data for Preliminary Evaluations (PE) and Engineering Analyses (EA), the two most common investigations for the past 3 years.

Preliminary Evaluations

Year	No. Closed	Over 4 Mo.	Percentage
1987	52	28	54
1988	106	51	48
1989	186	74	40

Engineering Analyses

Year	No. Closed	Over 4 Mo.	Percentage
1987	51	22	43
1988	29	11	38
1989	40	13	33

Another good measure of investigation efficiency is the average amount of time that active investigations have been open. Those times have also been reduced over the past 3 years.

Year	Preliminary Evaluation	Engineering Analyses
1987	3.2 months	17.9 months
1988	2.3	14.8
1989	2.5	13.7

A key limitation in processing investigations faster is the time taken for manufacturers to respond to Agency information requests. These information requests are vital to most investigations because they contain vehicle population data, manufacturer's complaints, parts and warranty data, and other information necessary to evaluate possible defects. Some investigations, particularly Preliminary Evaluations, take longer than the time allotted because this information is not available.

SENATOR LAUTENBERG: How will the increased caseload impact timeliness of defect investigations?

ANSWER: We don't believe it will affect timeliness. The goal is to continue to reduce the amount of time required to process investigations. The Agency has been successful in the past in doing so. That progress should continue.

SENATOR LAUTENBERG: If you will be increasing your reliance on contractors to support the investigative staff and increasing staff workload, what are your plans for ensuring oversight and management of the contract?

ANSWER: Each investigation is assigned to a staff investigator who is responsible for the investigation and retains oversight responsibility for contract support. Contractors are always in a support role and are never responsible for managing investigations. While relying on contractor and other types of support (co-op students, for example), NHTSA investigators still manage each investigation directly.

SENATOR LAUTENBERG: How many new cars does this budget allow NHTSA to purchase in 1991? Is that enough to test effectively for safety standard compliance?

ANSWER: We plan to test approximately the same number of vehicles in FY 1991 as will be tested in FY 1990: 40 passenger cars, 7 light trucks, 5 multipurpose passenger vehicles, 5 school buses, and 3 motorcycles. That number (60 total) is sufficient for the following reasons:

o Only 13 of the Federal Motor Vehicle Safety Standards (FMVSS) to be tested require purchased vehicles (6 other vehicle FMVSS will be tested using leased/rented vehicles).

o The purchased and leased vehicles are each used for testing several FMVSS. By testing 1 to 4 FMVSS per vehicle, a minimum of 5 vehicles will be tested to each of the 19 vehicle standards.

SENATOR LAUTENBERG: If not, how many additional dollars are needed?

ANSWER: No additional money is needed. With the efficiencies discussed in the previous answer, there are sufficient funds to run an effective program.

SENATOR LAUTENBERG: What is the status of the vehicle classification rulemaking?

ANSWER: On October 17, 1988, a Notice of Proposed Rulemaking (NPRM) was issued. Virtually all comments on the proposal cited difficulty with the application of any of the alternatives included in the proposal. The Agency is reexamining this matter and will be reaching a decision on what should be done during the summer of 1990.

SENATOR LAUTENBERG: When will you issue a final rule?

ANSWER: A decision on further rulemaking will be made in the summer of 1990.

SENATOR LAUTENBERG: How will the final rule impact the applicability of existing Federal Motor Vehicle Safety Standards to vehicles that are reclassified?

ANSWER: Under the Notice of Proposed Rulemaking (NPRM) it was proposed that no vehicle would be subject to any additional safety standard requirements solely as a result of this proceeding to establish a new vehicle classification system. It was the Agency's intention in the NPRM that after the rulemaking is completed, the Federal Motor Vehicle Safety Standards would be reviewed one by one for their application to specific vehicle classes. However, at this point the Agency is deliberating the next action it will take with regard to classification, and will make a decision on that action in the summer, 1990. At the same time, we are proceeding with extension of passenger car standards to light trucks and vans.

OTHER ISSUES

SENATOR LAUTENBERG: Does NHTSA believe that there is a definite CAFE standard beyond which we can not be assured of safe vehicles?

ANSWER: NHTSA believes that the use of technologies other than weight reduction (e.g., multi-valve engines, variable valve timing, electronic transmission controls, improved aerodynamics) can be used to achieve some modest CAFE improvements without compromising safety. However, most of these technologies have already been implemented or, at least, planned for future models. Thus, any significant improvement in CAFE will likely require vehicle downsizing; mix shift to a higher proportion of smaller, lighter vehicles; technological breakthroughs; and much more expensive technologies for new vehicles.

Our statistical analyses have demonstrated that the downsizing of the 1970's had adverse safety effects (e.g., reduced crashworthiness and greater rollover propensity). These effects may occur, even though the vehicles continue to meet all applicable Federal motor vehicle safety standards. Therefore, it is our belief that increasing the CAFE standards over existing levels by more than a small amount to account for possible new technology could have an adverse impact on safety.

SENATOR LAUTENBERG: Are we going to be endangering more lives with every increase in the CAFE standards that we implement?

ANSWER: While continued development and implementation of technology can be expected to result in some improvement in fuel economy, it seems clear that major increases in CAFE standards could be met only through substantial downsizing of the new car fleet. Decreases in size and weight are generally believed to increase the risk of crashes, injuries and death. NHTSA has been analyzing traffic crash data from the last round of major downsizing (in the late 1970's and early 1980's), and the preliminary results are disturbing. Our studies to date have indicated a substantial increase in fatalities in single-vehicle rollover incidents, and a small increase in injuries in single-vehicle non-rollover crashes. We are continuing to analyze other types of crashes to assess the total impact of downsizing, but the net effect was clearly adverse to safety.

NHTSA is therefore extremely concerned about any policy, such as increased CAFE standards, which would trigger more downsizing and, as a result, more traffic deaths and injuries. We would strongly encourage policymakers to consider other means of achieving energy and environmental goals, such as development of alternative fuels, assuring adequate petroleum supplies, promoting greater efficiency of in-use vehicles (through reduced congestion, car-pooling, etc.), and retirement of older less fuel-efficient cars, rather than focusing solely on CAFE and new-vehicle MPG standards.

SENATOR LAUTENBERG: Wouldn't better speed limit enforcement, perhaps a lower speed limit coupled with better educated drivers and intelligent highways, more than compensate for any increased fatality risks associated with higher CAFE standards?

ANSWER: NHTSA does not favor trading off safety gains for improvements in fuel economy. We do believe that further highway safety progress can be made, both in driver behavior (including greater use of safety belts, stronger steps to deter impaired drivers, enhanced compliance with speed limit laws, continued improvements in truck safety), and in vehicle design (with air bags, improved side-impact protection, anti-lock brakes). But we would not want to see those safety gains eroded by the negative effects of downsizing due to higher CAFE standards.

SENATOR LAUTENBERG: What are NHTSA's views on Senator Bryan's bill?

ANSWER: The Department strongly opposes this bill. The Department's letter to Chairman Hollings stated that the bill would have serious adverse effects on highway safety as well as on consumers, auto workers, and the motor vehicle industry. The concern for safety arises from the belief that the fuel economy levels demanded by the bill will lead to significant vehicle downsizing. NHTSA's statistical analyses have demonstrated that the downsizing of the 1970's had adverse safety effects. The Agency anticipates that the downsizing required by Senator Bryan's bill would also have adverse effects.

SENATOR LAUTENBERG: Will the $8 million being requested for 1991 allow you to increase the number of cases needed in NASS so it can be used effectively in decision-making? If not, how much additional money is needed? How many sample cases are required?

ANSWER: The $8 million requested in 1991 will not allow us to increase the number of cases. NASS is expected to collect from 6,000 to 6,500 cases in 1990 and not much more than that in 1991. The number of cases will provide about the same amount of information on serious crashes as has been available to this Agency in the past.

The NASS redesign for a Crashworthiness Data System that was approved in 1986 was projected to provide approximately 7,500 cases which were considered adequate for NHTSA's needs at that time. The number was based on a budget of $8 million for data collection, quality control and data processing. The $8 million is not sufficient to collect that many cases in FY 1991 because of the continuing increase in basic field costs since 1986, and because this funding must also provide for the General Estimates System, basic systems development (photogrammetry, injury coding), training of NASS investigators, and special projects. To obtain 7,500 cases would require an additional $2 million.

SENATOR LAUTENBERG: Has NHTSA made any progress in obtaining medical record data from those hospitals that were not providing NASS data?

ANSWER: NHTSA and the NASS contractors are continually striving to increase the number of hospitals cooperating with NASS. In the past year, we have been successful in persuading several more hospitals to begin cooperating. However, we also lost cooperation in a few hospitals during the year because of changes in hospital administrators who instituted new policy, concerns about patient privacy, or loss of staff. We have never lost cooperation because a hospital had a problem with NASS. Currently, about 70 percent of the approximately 550 hospitals in the sampling areas now cooperate in providing vital medical information on NASS cases. These hospitals treat over 85 percent of the injured people.

Although we regularly encourage those hospitals that are cooperating to continue doing so, we concentrate our efforts on persuading the larger, non-cooperating hospitals to provide data. Our requests to local hospital administrators stress the confidentiality of patient data, the reimbursement of costs to copy records and the limitation of our needs to diagnostic data only as opposed to treatment or cost information. Most of this effort is carried out by the local contractors but NHTSA gets directly involved in about 25 of the more critical requests each year.

SENATOR LAUTENBERG: How valid is NASS data in allowing NHTSA to make national projections

ANSWER: Procedures by which traffic crashes are selected either for investigation in the NASS Crashworthiness Data System (CDS) or for direct coding into the database in the NASS General Estimates System (GES) are based on probabilistic methods. The procedures were designed so that data from either survey, when coupled with the proper sampling weights, would produce national estimates with measurable statistical reliability. Thus, data can be, and are being used for making national projections for which error bounds can be defined. As with any survey, however, the estimates are subject to varying levels of statistical reliability, or sampling error, depending on the estimate itself. A national estimate of an overall statistic from GES, such as the number of crashes or the number of vehicles involved, has a relative sampling error of about 4 percent. On the other hand, an estimate from the CDS concerning specific types of more serious crashes is likely to have a sampling error at least as great as the estimate itself.

SENATOR LAUTENBERG: What is NHTSA doing to ensure adequate oversight and management of the increasing contract activity?

ANSWER: NHTSA has traditionally provided basic training courses to all Contracting Officer's Technical Representatives (COTRs) in contract law and management. Because of recent changes in contract law and regulations, the Agency has established a new training course on the role and responsibility of COTRs and all employees who are responsible for managing any contract are required to attend the training. During the past year, all COTRs have attended this course either for the first time, or as a refresher to acquaint them with changes to the procurement procedures.

The Agency has also developed an extensive computerized database system to enable management to effectively track individual contracts to ensure that the implementation is consistent with the budget plan.

Additionally, the Agency has a procedure to ensure that every procurement is approved by the Associate Administrator, and for any procurement exceeding $100,000, it must also be approved by the Administrator.

SENATOR LAUTENBERG: What is the demand by State officers for hazmat training courses at TSI? What is the demand/supply situation for these courses? Subcommittee staff has learned that many States want to have several of their officers certified by TSI so that these officers can train other officers. Is TSI able to meet the demands of these officers for participation in the "train-the-trainer" program?

ANSWER: The hazmat training courses presented at TSI are sponsored by the Office of Hazardous Materials Transportation, Research and Special Programs Administration (RSPA). The training is offered in basic and specialized courses for enforcement personnel responsible for monitoring the transportation of hazardous materials. According to RSPA, the demand for such training is greater than the resources available. RSPA supports the "train-the-trainer" approach and uses trained State officers to augment Federal staff for course delivery

In addition, the RSPA Office of Hazardous Materials Transportation is working with NHTSA in a cooperative manner to inform law enforcement of hazmat requirements and to improve hazmat enforcement. RSPA officials regularly participate in law enforcement workshops sponsored by NHTSA to increase understanding of hazardous materials transportation regulations. The Agencies are developing, in conjunction with the International Chiefs of Police, a video tape designed to inform law enforcement managers of these hazmat transportation regulations and enforcement requirements. The video will be released in the summer, 1990.

SENATOR LAUTENBERG: Please assess the effectiveness of NHTSA's efforts to disseminate research results obtained from NHTSA-sponsored studies to both the research community and the states' safety communities. How does the FY 1991 budget request address this topic? What could NHTSA do to improve its efforts in this area?

ANSWER: Upon completion of final reports of NHTSA-sponsored studies, the Agency prints and distributes through GPO copies to NHTSA Regional Offices, State Highway Safety Offices, and any outside organizations that may be interested in the particular study. In addition, numerous copies are retained "on the shelf" to respond to other requests for the reports. In addition to distribution of the actual reports, the Agency periodically publishes and distributes a summary of recent studies entitled Research Notes and we recently initiated a similiar publication, Traffic Tech, both of which are designed to disseminate information in summary form, and point the reader to the appropriate person within the Agency who can provide them additional details regarding a specific study. Each of these publications are routinely mailed to thousands of individuals and organizations who have expressed interest in highway safety programs.

Our technical staff prepare many papers each year on our research results that are presented to professional societies. In addition, we have recently appointed a technology transfer director in our research office. This person will be responsible for overseeing the dissemination of research results, developing and implementing new means for disseminating results when deficiencies are discovered, and developing and publishing a periodic NHTSA Research Journal.

We believe these methods ensure that the results of the findings of Agency-sponsored studies are given broad exposure and are available to those interested in the topics.

The FY 1991 budget request includes funds for technology sharing, which includes materials reproduction, as well as distribution and logistics services. In addition, the Agency has recently initiated a contract with the National Association of Governors' Highway Safety Representatives to establish an information clearinghouse as a means to ensure more efficient technology transfer to the State Highway Safety Offices.

SENATOR LAUTENBERG: Would you support a rollback of bumper standards to the old 5-mph level, instead of the 2.5-mph standard now in use? If not, why not?

ANSWER: NHTSA would not support reestablishment of a 5 mph bumper standard. The bumper standard was lowered from 5 mph to 2.5 mph in 1982, based on an extensive analysis of the costs and benefits of 5-mph bumpers, and on a comprehensive rulemaking record based on the statutory authority for the bumper standard. While the Agency recognized that 2.5-mph bumpers would lead to more vehicle damage in low-speed crashes, it found that this increase would be more than offset by consumer savings in the original and replacement costs of such bumpers and in fuel savings due to lighter weight.

While a 2.5-mph bumper clearly gives a vehicle less protection in certain low-speed crashes than a 5-mph bumper, not every vehicle is involved in such low-speed crashes during its lifetime. Thus, only some car owners, particularly those in urban areas where low speed crashes are more frequent, may benefit from having 5-mph bumper requirements. As a result, all passenger car owners would have to pay for protection that only some of them would need.

In accordance with Title I of the Motor Vehicle and Cost Savings Act (the Cost Savings Act), the Agency has set the bumper standard at the level that maximizes net consumer benefits after taking into account the protection offered by bumpers, the higher costs to all consumers of obtaining that protection, and the frequency of low-speed crashes. Nevertheless, most automobile manufacturers are providing 5-mph bumpers on at least some of their vehicles in response to perceived consumer demand.

SENATOR LAUTENBERG: Bumper standards are briefly mentioned under "automotive consumer programs" in your budget submission (p. 37) among "other agency activities in the areas of consumer information regulations." As NHTSA has been strongly criticized for its policies regarding bumper standards, can you not raise the level of your consumer information efforts in this area, so the public can at least be able to find out which automobiles have the best, and worst, bumpers?

ANSWER: NHTSA does not believe it would be wise to direct limited public information resources into the limited issue of bumpers. In addition, we are skeptical that a useful consumer information program could be developed even if resources were available. NHTSA initiated a Consumer Information Program on Bumpers in 1982. In addition, the program testing began in 1984 and was completed in 1985. The purpose of the test program was to determine whether any correlation existed between the test results and real-world accident experience (i.e., insurance accident repair data). From the results of this program, the Agency concluded that there was no correlation. The lack of correlation is attributed to the fact that neither insurance company data nor any accident data base can segregate accident damage as a function of vehicle impact speed. In other words, real-world data would only be usable to check correlation with bumper tests if information on the frequency of occurrence and vehicle damage versus impact speed were obtainable. These data are not available.

Information for consumers is available from the Insurance Institute for Highway Safety (IIHS). Their data present manufacturers bumper ratings (i.e., 2.5 mph, weak 5 mph, and strong 5 mph) and actual dollar damage based upon their own bumper tests. However, conflicting results have been reported because in some instances, the best bumpers (strong 5 mph) show the greatest damage in the IIHS bumper test program. Given the lack of correlation with insurance cost data under the NHTSA program and the conflicting results obtained in the ongoing IIHS testing program, the Agency believes that further consumer information efforts would be of doubtful value. Consumers Union also provides bumper test information as a part of its tests on new cars published in Consumer Reports.

SENATOR LAUTENBERG: Also under consumer programs, how do you intend to implement your "Tire Program?" It is mentioned on p. 34 as one of four parts to the consumer program, but there is no information on implementation and costs.

ANSWER: Under the Agency's Uniform Tire Quality Grading Standards (UTQGS), manufacturers grade their tires in three areas -- traction, temperature resistance, and treadwear -- based upon test results in accordance with Federal standards. NHTSA monitors these tests which are conducted at its San Angelo, Texas facility. The tire grades are published in a pamphlet available from NHTSA. In addition, the grades are molded into the sidewalls of tires and listed on a paper label attached to new tires. Agency costs are primarily for personnel and publication expenses. These costs are covered under salaries and operating expenses. NHTSA's estimated annual cost is $300,000.

SENATOR LAUTENBERG: How are your research efforts coordinated with those of the Centers for Disease Control in areas of mutual interest?

ANSWER: NHTSA and the Centers for Disease Control have an ongoing interagency agreement which provides continued coordination in the development of both the NHTSA injury research and the CDC grants program in areas of injury control research. CDC has a designated staff who works directly with NHTSA staff in the development of yearly plans for both NHTSA program objectives and the issuance of injury control grants to ensure that duplication of effort can be avoided. Periodic reviews of both programs are conducted throughout the year. NHTSA and CDC staff jointly manage all related injury control grants and highway safety Centers of Excellence.

SUBCOMMITTEE RECESS

Senator LAUTENBERG. This subcommittee now stands in recess until Thursday, April 19, at 10 a.m., when we are going to hear from the Federal Railroad Administration and Amtrak. Just think of what we could do for safety if we could get some of the folks off the highways and onto good, safe, efficient rail travel.

Thank you very much.

General CURRY. Thank you, Mr. Chairman.

[Whereupon, at 12:14 p.m., Thursday, April 5, the subcommittee was recessed, to reconvene at 10:33 a.m., Thursday, April 19.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, APRIL 19, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:33 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Frank R. Lautenberg (chairman) presiding.

Present: Senators Lautenberg, D'Amato, Domenici, and Grassley.

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

STATEMENT OF HON. GRAHAM CLAYTOR, JR., PRESIDENT

ACCOMPANIED BY:

- DENNIS F. SULLIVAN, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER
- CHARLES W. HAYWARD, VICE PRESIDENT, FINANCE AND ADMINISTRATION
- WILLIAM S. NORMAN, EXECUTIVE VICE PRESIDENT
- THOMAS J. GILLESPIE, JR., ASSISTANT VICE PRESIDENT, GOVERNMENT AND PUBLIC AFFAIRS
- TONY D'ANGELO, VICE PRESIDENT, REAL ESTATE AND OPERATIONS

OPENING REMARKS

Senator LAUTENBERG. I call the subcommittee to order.

I welcome our guests. Mr. Claytor, in tribute to you, the hearing room is full—not that the Subcommittee on Transportation is not an exciting forum, but we do not always have this kind of crowd. So maybe these are riders. I hope they are not all staff, Mr. Claytor. We will see if the room empties when you are finished with your section.

We look forward to having testimony on the fiscal year 1991 budget requirements for Amtrak and for the Federal Railroad Administration [FRA]. Speaking as one Senator, I am glad to hear the new kinder, gentler rhetoric out of the administration regarding Amtrak. It is nice to see that they stand with me in praising Amtrak's improved availability of service and improved ratio of revenues to cost,. and its commitment to investing in necessary capital improvements to put Amtrak on a firm financial footing for the future.

Most importantly, the administration has joined me in supporting Graham Claytor's goal to achieve operating self-sufficiency by the year 2000.

However, when we take the next logical step consistent with Amtrak's goals, the one of providing an adequate level of operating and capital support for 1991, suddenly I am out there standing in an oasis. I want to make it absolutely clear to anyone who may have been thrown off by the new rhetoric: President Bush's budget for 1991, the request for Amtrak, is zero—not a penny, the same request of the previous administration—zero for operating expenses, zero for capital investment, and zero for the necessary funding to maintain the Northeast corridor, a cut of $630 million below the level provided last year.

I guess this is where the rubber meets the road or wheels meet the track or something like that. But the speeches do not fund the development or the operations of a very vital service that this country has. This Senator continues to find the administration's Amtrak request to reflect budgetary irresponsibility of the highest order. It is a policy that ignores the administration's own promises on clean air, on relieving congestion in the air, congestion on our highways, and on improving transportation safety.

It ignores the fact that no passenger railroad in the world operates without a government subsidy. The fact that Amtrak seeks operating self-sufficiency by the year 2000 would put it far ahead of its peers.

At no time during our subcommittee hearing with UMTA did the Administrator point out that the administration's plan would stick the commuter lines in the Northeast corridor with a bill for over $127 million if they were forced to take over Amtrak's operation of the Northeast corridor. This policy alone would result in additional costs of $31 million to New Jersey Transit. That is what the termination of Amtrak funding would mean.

After all the kind words, the administration summarizes its policy toward funding for Amtrak in 1991 as follows: "Current budget constraints limit the availability of funds for Amtrak's present subsidy needs." Well, this committee does not have the luxury of nor the interest in walking away from these present subsidy needs. Frankly, we are not going to be that irresponsible.

So, once again we will struggle to provide the necessary increases for the Coast Guard and the FAA while at the same time restoring funds for Amtrak to maintain a sound, multimodal transportation system, which is also a goal of this administration, so they say.

This morning I want to pursue how we can assist Amtrak in achieving its goal of operating self-sufficiency by the end of the decade. We will discuss Graham Claytor's proposal to set aside a penny of our new gas tax for Amtrak's long-term needs. I would also like to review Amtrak's progress in management improvements, technological innovation, and the enhancement of nonticket revenues.

Most importantly, I want to see how we can keep Amtrak moving ahead as a safe, clean and comfortable mode of intercity transportation through the shortening of trips in the Northeast corridor, improving the convenience of Amtrak's nonsmoking riders, and enhancing access for Amtrak's disabled riders.

Unfortunately, this committee is once again forced to do the job on our own without the benefit of the administration's advice or support. But we have risen to this challenge before, and I expect that we will do so again.

I want to welcome my distinguished colleague from the State of New York, as we say, across the river, who also has a deep and abiding interest in Amtrak and in mass transit. I am pleased to call on Senator D'Amato for an opening statement.

REMARKS OF SENATOR D'AMATO

Senator D'AMATO. Thank you, Mr. Chairman. I am going to ask, in the interest of time, that my statement be included in the record as if read in its entirety.

Let me say, though, it is a pleasure to see Graham Claytor here. He has done just such a great job as has his entire team, and Administrator Gil Carmichael, who will be here testifying as well. I cannot think of anyone who has given greater service to transportation, to the needs to help the Federal deficit by reducing the claim on Federal revenues used to operate Amtrak, and certainly I wish it was within our power to make available the capital, Mr. Chairman, that you and I have talked about that would enhance Mr. Claytor's great strides with Amtrak.

PREPARED STATEMENT

But it is a great privilege for me to be here and to see my good friend again. Thank you.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, it is a pleasure to join you in welcoming Amtrak President Graham Claytor and Federal Railroad Administrator Gil Carmichael to today's hearing.

Once again, we have a budget request that deletes Amtrak. This is simply incredible when clean air standards demand that more Americans get out of their cars and use public transportation. Today is "Alternative Transportation Day," underscoring the fact that if we use public transportation we can help clean up the air, reduce congestion, and decrease our dependence on foreign oil. This subcommittee is not going to kill Amtrak. We will, however, have to add back over $600 million to keep Amtrak rolling while funding other transportation modes.

The total rail budget proposal is for $69.6 million, a cut of $641 million from FY 1990. The decreases include a cut of $615 million from Amtrak, a cut of $24.4 million from the Northeast Corridor Improvement Program, and a cut of $7 million from Local Rail Service Assistance.

We will soon hear from Mr. Claytor on Amtrak's $684 million budget request. Of that sum, $188 million is for capital, $495 million is for operations ($35 million less than FY 1990), and $1 million is for anticipated labor protection liability. Graham Claytor's superb leadership has resulted in Amtrak covering 72 percent of its 1989 operating costs. This is an increase of 24 percent from 1981, when Amtrak covered only 48 percent of its costs. Mr. Claytor promises that Amtrak will cover all of its own operating costs by the year 2000. If someone other than he made that claim, we might dismiss it; however, I believe we can anticipate providing only capital funds for Amtrak in the next century. That is great progress.

The Federal Railroad Administration's budget includes a request for $36.5 million for Railroad Safety—an increase of $5 million over FY 1990. Inspection coverage and enforcement is proposed to be improved by the addition of 47 inspectors (12 field safety inspector trainees, and 35 safety positions). Railroad Research and Development would be funded at $17 million—an increase of $7.5 million over FY 1990. The administration also has asked for $6.1 million to conduct technical assessments of high speed rail and magnetic levitation (MAGLEV) systems to determine their viability and potential for private sector investment.

Mr. Chairman, I look forward to hearing from today's witnesses. Thank you, Mr. Chairman.

STATEMENT OF GRAHAM CLAYTOR

Senator **Lautenberg**. Thank you. Our distinguished colleague from New Mexico.

Senator **Domenici**. I have no comments. Thank you, Mr. Chairman. It is good to be here.

Senator **Lautenberg**. Now, Mr. Claytor, we invite you to give your testimony. You always have a crisp manner and I would hope that you would continue in that form and give us a summary. Your entire statement, of course, will be included in the record.

Mr. **Claytor**. Thank you very much, Mr. Chairman.

As always, I am very happy to appear before the subcommittee to talk about the year we have completed and to outline our idea of the new decade and beyond. But I also want very much to thank the chairman and Senator D'Amato for introducing Senate Concurrent Resolution 115, which expresses the sense of Congress regarding the importance of continued Federal support for Amtrak.

Senator Lautenberg has introduced the resolution each year that our funding has been threatened, and it further demonstrates the critical leadership that you, Mr. Chairman, and you, Senator D'Amato, and other cosponsors have demonstrated with respect to Amtrak. All of our team who are working hard to keep our progress going appreciate that very much.

INTRODUCTION OF ASSOCIATES

First, I have at the table with me today several of our top executives. On my left is Chuck Hayward, Vice President of Finance and Administration and in charge of the budget; Denny Sullivan, Executive Vice President and Chief Operating Officer; Bill Norman, Executive Vice President. On my right is Tim Gillespie, Assistant Vice President for Government and Public Affairs, and then finally, on my right, Tony D'Angelo, our Vice President for Real Estate and Operation, who can probably answer some of the questions that you have on our real estate development.

Mr. Chairman, my prepared testimony deals at length with our activities during the year, and I ask that a copy, together with the enclosures, be included in the record.

Senator **Lautenberg**. Without objection.

BUDGET REQUEST

Mr. **Claytor**. Mr. Chairman, as the subcommittee is aware, Amtrak is requesting $495 million for operations, and in constant dollars this is one of the lowest figures for that that we have had.

We are also asking $188 million for critically needed capital improvements, and $1 million for labor protection liability, so that our total request is $684 million, which is the amount that both the House and Senate authorization bills have included for Amtrak for fiscal year 1991.

In addition, we are asking for $58.8 million in Northeast corridor improvement project funds for continuation of the very important authorized but unfunded improvements to the Northeast corridor with which you are very well acquainted.

Now, Mr. Chairman, it has been 19 years since Amtrak commenced operation of a nationwide passenger system under the Rail Passenger Service Act of 1970. At that time, a much more extensive passenger network provided by the private freight railroads was losing over $400 million a year, and that $400 million a year in 1970 would be a loss of $1.5 billion in today's dollars.

At the same time, as I personally recall, with only a few exceptions the quality of this privately operating passenger service was absolutely abysmal. Now, 20 years later, it is particularly interesting to note that Amtrak is operating more total passenger miles than did all of the passenger railroads in the country, combined, in 1970, and is doing so at a fraction of the cost.

This past year, as you know, we were able to cover over 72 percent of the cost of operating our system, better than any passenger system in the world of which we are aware, and we hope to raise that further this year. It is now our goal, as you mentioned, to eliminate our need for Federal operating support by the year 2000. If we can get the capital we need to increase our capacity and continue to build up our revenues, I know we can do it.

We will also require capital to get more locomotives and to modernize our maintenance facilities in order to improve productivity and control costs. And equally important—and this is something we are working hard on—we must modernize the labor work rules that govern many of our nonoperating functions if we are to optimize efficiency and find the funds with which to pay our employees a fair but affordable compensation package, which is also one of our goals.

Finally—and this again is something we have not called to the committee's attention as much in previous times—we must look to Congress to help cleanse our budget of a lot of substantial costs that are imposed on us but are not needed for intercity rail passenger service. This includes some $152 million in excess railroad retirement and railroad unemployment insurance costs, as well as some $47 million in cross-subsidy for commuter trains operating over our Northeast corridor.

If these unrelated costs were eliminated, Amtrak's true need for operating support in fiscal year 1991 for intercity passenger service would be under $300 million, almost $200 million less than the $495 million that we must request under existing requirements. We certainly want to work with the subcommittee on seeing if there is not some way to right this situation.

In addition, of course, taking Amtrak out of the Federal Employers Liability Act problem would save another $17 million currently and even more in future years. So there are ways we can reduce our subsidy in addition to our primary objective, which is to increase our revenues and hold down our costs.

Now, revenues last year were very strong, reaching more than $1.25 billion, up 15 percent over last year and more than double our revenues of 8 years ago. I must emphasize, however, that we are essentially capacity-restrained in our markets and are improving revenues currently only through yield management, which includes selectively high fares. I do not believe we can continue this revenue growth much longer without additional capacity, and additional capacity, of course, means more equipment.

PURCHASE OF NEW LONG-DISTANCE CARS

This subcommittee was able to provide Amtrak $50 million in Federal capital for fiscal year 1990 for investment in new long-distance cars. I am pleased to report that we intend to move forward with an initial order for at least 75 new Superliner sleeper and food service cars using this Federal capital, as well as substantial funds to be raised in the private financial markets, which we have proved we can do to a limited extent.

These high-capacity, double-deck cars will provide critically needed seats and bedrooms on existing routes and permit us to convert our premier Auto Train service to this new Superliner equipment. That in turn would free up the Auto Train's excellent low-level equipment to add capacity on other low-level long-distance routes and to provide the equipment we need to make the triweekly Cardinal a daily service, an important step toward our long-term objective of making all of our long-distance frequencies daily. Daily service makes them eligible for mail contracts and is one of the primary reasons we want to move in that direction.

The Superliner cars have a high return on investment. They are the most efficient cars that we can get, and they will be more than sufficient to cover the cost of those funds to be obtained from the private sector. So we are moving in that direction as promptly as we can.

Our fiscal year 1991 grant request details an even more ambitious equipment acquisition for the next year, depending on the availability of Federal capital. Our Viewliner—the Viewliner is our new design low-level sleeper that also has high capacity and is more efficient—is still being tested, and we are getting the bugs out of that so that when we place the order to replace our 40-year-old Heritage fleet those cars will be in first-class shape.

Of course, we are strapped for motive power, too, and we have got to purchase more locomotives, including new state-of-the-art, 3-phase alternating current traction motors engines; we are the leader in this country in developing that. They have already been developed extensively in Europe.

We are starting it here. Two prototypes of that new engine are now undergoing tests at the AAR test center in Pueblo, CO, and we are hopeful we can move forward on that fairly fast.

BETTER AND MORE SIMPLIFIED FUNDING APPROACH

Our increasing need for capital is an issue that this subcommittee has heard every year since the mid-1980's. I understand, of course, and am very sensitive to the enormous financial crunch that the Federal deficit has imposed on everyone, but particularly on transportation. It is for this reason that Amtrak has advocated what I think is a better and more simplified funding approach for all surface transportation modes.

We are not currently proposing a specific increase in the Federal gasoline tax, but if it is increased, as I think is likely in the next year or two, as a means of addressing this Nation's growing transportation problems, I strongly urge you to support use of a penny of this tax increase for Amtrak's capital investment.

In addition to enabling Amtrak, through more capacity and possibly new routes, to be even a more vital link with rural America, the additional capital would permit us, for example, to upgrade our New Haven to Boston line by electrification and other improvements, and to acquire the type of high-speed equipment which Mr. Carmichael, our board member, Haley Barbour, and I recently saw in operation in Sweden.

All this, in turn, would enable us to provide high speed New York to Boston service in under 3 hours, and New York to Washington service in about 2 hours 15 minutes, with correspondingly faster service, of course, to intermediate points. This would also show the way to similar high-speed service in still other corridors.

Such services would provide important new revenues to help us reach our goal of self-sufficiency, as well as free up congested airports and interstate highways and so avoid billions of dollars of expenditure for otherwise necessary expansion of those very costly facilities.

This would also be an important step in achieving Amtrak's determination to become a world leader in the coming era of high-speed rail systems. I am very optimistic about moving forward on that.

Finally, I would note that this week marks the 20th anniversary of Earth Day and that today has been designated Alternative Transportation Day. It is fitting that we should be discussing the future of Amtrak on a day like this. Amtrak provides an important, energy efficient, environmentally benign alternative to increasingly crowded highways and airports. Indeed, it was the environmental and energy security concerns of 20 years ago that caused the Rail Passenger Service Act to be enacted in 1970.

In conclusion, Mr. Chairman, let me say that with the strong and essential support of this subcommittee and the Congress Amtrak has made a powerful case since passage of the Rail Passenger Service Act for the rail passenger alternative. We have a capable and dedicated management team in place, and with additional capital funding that is very modest compared to airport and interstate highway costs, we can play an even greater role, particularly as energy and environmental concerns regain the importance they had a decade or more ago.

PREPARED STATEMENT

Thank you, Mr. Chairman. I would be glad to try to respond to your questions.

[The statement follows:]

STATEMENT OF W. GRAHAM CLAYTOR, JR.

My name is W. Graham Claytor, Jr. As President and Chairman of the Board of the National Railroad Passenger Corporation (Amtrak), I am pleased to be here today to detail the outstanding year we have just completed and to outline to the Subcommittee Amtrak's vision for the new decade and the century beyond.

Since I first appeared before this Subcommittee in 1983, I have been able to report each year that Amtrak's financial performance during the previous fiscal year had significantly improved and broken all previous records. This past year is no exception. fiscal year 1989 was a record year and the prospects for long-term continued revenue and passenger-mile growth are strong. Revenue reached $1.27 billion, a 15 percent improvement over last year, and enabled Amtrak to cover 72 percent of its operating costs without federal operating assistance. Total intercity passenger miles climbed to 5.86 billion, the highest in Amtrak's history and up over 23 percent since 1981. Indeed, the number of miles traveled by Amtrak's passengers is now higher than it was for all passengers travelling on the various intercity passenger railroads in the United States in 1970, prior to the establishment of Amtrak. What is most remarkable about the continued growth in both revenue and passenger miles is that this has been accomplished at a time when Amtrak essentially has outstripped the capacity of its equipment to carry additional passengers on many of its routes. Growth has been achieved primarily through yield management, and by higher fares and better utilization of equipment. Indeed, because of the lack of capacity on many of our trains, Amtrak has been turning away millions of potential passengers, particularly for expensive first-class accommodations.

Amtrak's reduced request for federal financial assistance during fiscal year 1991 reflects the continuing progress we were making toward providing better rail passenger service at less cost to the federal government. Amtrak is requesting $495 million for operations, $26 million less than appropriated for FY 1990 and an amount that in constant dollars equates to the level of federal operating support provided in the very first years of Amtrak's history.

Amtrak also is requesting $188 million in federal capital funding. This will supplement capital generated by Amtrak and enable us to leverage funds borrowed from the private sector to support a modest passenger car and locomotive acquisition program, as well as to undertake important plant modernization. Last year, Amtrak requested $50 million in fiscal year 1990 capital funds, to be matched with an equal or greater sum in the private financial market, for use in placing an initial order for new long-distance cars. We were extremely pleased that this Subcommittee, and Congress, supported this approach. In evaluating the best use for the equipment capital, we have determined that we could acquire equipment sooner and realize a higher return on investment by purchasing additional Superliner cars—our high capacity, handicapped accessible, two-level sleeping and coach cars, as well as additional Superliner diner cars—rather than new Viewliners, which are still undergoing several mechanical and accessibility design changes. In order to achieve minimum order efficiencies, we would like to go forward this Spring with an initial purchase of at least 75 new Superliner long-distance cars to be funded with the federal capital support provided last year, funds borrowed from the private sector and possibly some fiscal year 1991 federal capital. The new Superliner cars will be used to increase capacity on several sold-out long-distance routes and to substitute the two-level Superliner cars for existing single-level equipment on Amtrak's premier Auto Train service. This, in turn, will then would make available high-quality single-level equipment for use in expanding capacity on other single-level trains and to make the Cardinal daily, a goal we have long supported. Additional capacity is urgently needed if we are to maintain the revenue growth we have achieved during the past decade. I am very confident that Amtrak can continue to depend on this type of public/private funding to address many of our significant deferred and current capital needs, particularly new equipment.

Together with a request for $1 million to cover anticipated labor protection liability, Amtrak's total fiscal year 1991 grant request is for $684 million. This is the level of funding that the House approved by a vote of 296 to 93 and the Senate approved by voice vote for Amtrak's fiscal year 1991 authorization. It represents an increase of approximately $79 million over the fiscal year 1990 appropriation, all for capital investment. As the Senate Committee on Commerce, Science and Transportation recognized in its report on the Amtrak Authorization bill:

> Improved facilities and equipment are necessary to enable Amtrak to grow and to provide better, more reliable service at less cost. Neglecting to invest in such improvements will prevent Amtrak from replacing critical capital assets once they are consumed. This is likely to result in reduced reliability and quality of Amtrak service, and also increased equipment maintenance and costs related to providing service. Indeed, Amtrak's [1988] on-time performance decrease is due in part to overuse and undermaintenance of existing, insufficient rolling stock as it attempts to handle a growing passenger demand.

Amtrak also is requesting a total of $58.8 million for the Northeast Corridor Improvement Project. These funds would be used to make a number of important improvements to the Corridor's electric traction system and right-of-way. It also would provide Amtrak's financial contribution, as specified in House Report 100-957, to the extension of the Centralized and Electric Traffic Control (CETC) system between Wilmington, Delaware, and Newark, New Jersey, a jointly funded project by Amtrak, UMTA, SEPTA and New Jersey Transit.

It is important to note that nearly half of the $495 million operating grant Amtrak is requesting for fiscal year 1991 will either be given back to the federal government in the form of excess Railroad Retirement and Railroad Unemployment payments, which the government will use elsewhere to pay federal liabilities, or will be used to support state commuter rail operations on the Northeast Corridor. The actual amount of taxpayer funds needed to operate Amtrak's intercity rail operations during fiscal year 1991 will be just $296 million. In addition, the requirement that Amtrak resolve its employee injury claims under the Federal Employers' Liability Act rather than under state workers' compensation laws results in at least an additional $17 million in unnecessary costs. If Amtrak's budget reflected only the true and necessary costs of operating intercity rail passenger service, our need for federal operating assistance in fiscal year 1991 would be just $279 million. Under this accounting methodology, Amtrak expects to cover 87 percent of the cost of its intercity service next year. The manner in which Amtrak's budget needs are artificially inflated is reflected in the fiscal year 1991 Grant Request and Justification, submitted to the Subcommittee on February 15, 1990, and is discussed at length in Amtrak's 1990 Legislative Report, which I have included as Attachment 1 hereto.

Amtrak's steady financial improvement has helped produce an important change in public attitude toward rail passenger service and the positive role that it can play in the national transportation system. Favorable articles about Amtrak and the resurgence of rail passenger service by the major newspapers and several national magazines demonstrate that Amtrak increasingly is seen as part of the answer for alleviating the highway and airport congestion that is so clogging the nation's transportation system and polluting the nation's air and environment. Indeed, last year's 373 to 42 vote by the House of Representatives to defeat an amendment to the fiscal year 1990 Transportation Appropriations Bill that would have eliminated federal support for Amtrak poignantly illustrated the extremely broad support in this country for a national rail passenger system. Even some of Amtrak's most ardent critics have modified their view. Stephen Moore, an economist with the Heritage Foundation who led efforts several years ago against continued federal support for Amtrak, recently was quoted by the New York Times as stating: "I say, hats off to . . . the folks at Amtrak. They have really turned that railroad around."

Needless to say, we were very disappointed that for the sixth straight year the Administration has recommended against Amtrak funding for the next fiscal year. Despite Amtrak's continued financial improvement, it must still rely for the next few years on federal operating support, and the absence of such support would force the termination of all Amtrak intercity service—long-distance as well as Northeast Corridor operations. It also would force state commuter rail authorities and freight railroads to absorb some $127 million in additional costs just to keep the Northeast Corridor open for commuter and freight business. Attachment 2 hereto summarizes the impact that would result from the elimination of Amtrak service.

Nonetheless, Amtrak is encouraged that for the first time in many years the Administration's budget officially recognizes Amtrak's financial progress and pledges that the Administration will work with Congress and the private sector to help secure needed capital for Amtrak.

The convergence of Amtrak's financial improvement and growing support for an enhanced national rail passenger system bode well for the future. With a significant capital investment in new passenger equipment and modern maintenance facilities, and an Amtrak budget that reflects only the real cost to the taxpayer of providing intercity rail passenger service, Amtrak now believes it can in fact attain, by the year 2000, a goal no passenger railroad in the world today is achieving: covering 100 percent of our operating costs without federal assistance. Reaching this unprecedented goal will require the strong support of Congress, the Administration and the private sector. Nonetheless, I believe it is a realistic goal and we are committed to it. Several of the issues related to achieving operational self-sufficiency are discussed in Amtrak's 1990 Legislative Report, which is Attachment 1. The ultimate result will be an Amtrak capable of providing enhanced intercity rail passenger service wherever it can be justified, at no overall annual operating cost to the federal government. This is an exciting objective and one that we feel Amtrak can meet if the capital and budgetary assistance we need are addressed.

Amtrak's goal of covering its own operating costs comes at a particularly auspicious time in this nation's history. Several ominous developments underscore the need for a comprehensive national transportation policy that looks increasingly to energy-efficient intercity rail passenger service in many crowded corridors and encourages its use as a long-distance transportation alternative:

—Transportation accounts for 65 percent of petroleum use in the United States and petroleum imports have risen to 35 percent of total supply. By the year 2000, 60 percent of the nation's gasoline supply is expected to be refined from imported petroleum.

—Air pollution from motor vehicles is responsible for $40-50 billion in annual health-care expenditures and as many as 120,000 premature deaths each year.

—The Federal Aviation Administration estimates that flight delays in 1986 increased airline operating expenses by $1.5 billion and cost passengers an additional $1.5 billion in lost time and productivity.

—The Department of Transportation estimates that delays to travelers and commuters on United States highways will reach 3.9 billion hours per year by 2005 unless significant improvements are made. The Transportation Research Board projects that within 20 years these delays will grow to some 5.6 billion hours, result in the unnecessary consumption of 7.3 billion gallons of gasoline a year, and cost travelers an extra $41 billion.

Increased reliance on rail passenger service can alleviate some of these critical problems. Amtrak is prepared and eager to play an increasingly important role in a national transportation system that is sensitive to energy and environmental concerns and the needs of urban and rural America.

First, we can and should be the primary public transportation carrier in high-density corridors—such as Washington-New York; New York-Boston; Los Angeles-San Diego; Chicago-Detroit, and various others—thereby helping to ease highway congestion and freeing-up limited airport capacity for longer-distance air travelers. For example, one-third of the passengers flying out of Boston's congested Logan Airport, and one-fifth of the passengers flying out of New York's equally crowded major airports, are traveling between Boston and New York. High-speed rail service between the two cities in three hours or less, sufficient to attract large numbers of business travelers, could significantly reduce the need for New York-Boston air service, thereby easing airport capacity concerns. In this connection as well, Amtrak hopes to expand its contract commuter operations to assist cities in providing reliable, marketable commuter rail service in congested cities. During the past year, Amtrak signed an agreement to operate commuter service between Northern Virginia and Washington, and between New Haven and Old Saybrook, Connecticut, and Amtrak is looking at several other interesting opportunities in California and other states.

Second, as airlines and bus companies continue to pull out of rural America, Amtrak service increasingly is looked to as a vital link—in some cases the only public transportation link—to America's heartland. With additional equipment, Amtrak can improve and expand its long-distance services to an increasingly isolated segment of this country.

Lastly, Amtrak would be the logical and most experienced operator in the area of high-speed rail. We are committed to applying our expertise to assist in the development and operation of new high-speed rail systems, both based on magnetic levitation and on more conventional technologies. I firmly believe that there is a bright future for high-speed rail in key transportation corridors in this nation and Amtrak intends to play an active role in helping develop this potential.

In short, we are excited by the challenges ahead and are confident that, if given the needed tools—capital funds and legislative relief from outdated laws—we can indeed be an even more important and economical part of the solution to this nation's transportation needs.

A YEAR OF CONTINUED FINANCIAL PROGRESS

During fiscal year 1989, Amtrak continued its march toward operating self-sufficiency by achieving the highest level of revenues and passenger miles and the highest revenue-to-cost ratio in its 19-year history, all despite severe equipment shortages. The continued strong growth in revenues in the face of frequent fare increases demonstrates the strength and depth of demand for Amtrak service, and further emphasizes the very positive financial impact that will result from the acquisition of new passenger equipment.

Amtrak's progress during the past nine years is summarized in the following chart.

COMPARISON OF FINANCIAL AND PERFORMANCE DATA

	1981	1989	Change (percent)
Total revenues in current dollars (millions)	$612.2	$1,269.1	+107
Total revenues (1981 $ millions)	$612.2	$921.5	+51
Revenue to cost ratio	0.48	0.72	+50
Total Federal grant (1981 $ millions)	$896	$442.1	−53
Federal operating grant in current dollars (millions)	$675.8	$553.8	−18
Federal operating grant (1981 $ millions)	$675.8	$402	−40
Federal capital grant in current dollars (millions)	$221	$30	−84
Revenue to short-term avoidable cost ratio	0.73	1.20	+73
Revenue to long-term avoidable cost ratio	0.60	0.91	+52
Passenger miles (millions)	4,762	5,859	+23
Passenger miles per train mile	155	188	+22
Total Federal support as a percentage of U.S. budget	0.1	0.05	−50
Non-union employees as proportion of work force	0.15	0.12	−20

As can be seen, fiscal year 1989 was a year of significant improvements and accomplishments. A detailed description of Amtrak's financial and performance achievements is included in Amtrak's 1989 Annual Report, and rather than repeat all the same detail here, I have attached the Annual Report as Attachment 3 hereto. Clearly, we are putting our limited equipment fleet to its best and most efficient use. At the same time, Amtrak is taking all possible steps to ensure that the equipment is adequately and properly maintained. Our Metroliner Service trains operated on-time 92.8 percent of the time, and system-wide on-time performance jumped four percentage points to 75 percent. This was still below our system-wide goal of 80 percent, but nonetheless reflects the effectiveness of Amtrak's efforts to modernize its maintenance facilities and to streamline the equipment maintenance process. Amtrak's revenue enhancement efforts—ranging from real estate development to the provision of contract commuter service to the carriage of mail and express—continue to make an important and growing financial contribution to Amtrak's operating budget as well as to provide critically needed capital resources.

Most importantly, we are carrying passengers longer distances and earning more revenue per passenger mile than ever before in Amtrak's history. Intercity rail passenger service is more cost effective than it has been in decades and Amtrak is literally deluged with requests from states and other interested parties to study new rail passenger routes and additional frequencies on existing routes. I firmly believe that Amtrak is a success story of which the federal government and the American people can be proud, and Amtrak is committed to providing even better service as we seek to eliminate the need for federal operating assistance in the coming years.

KEY CONCERNS ON ROAD TO OPERATIONAL SELF-SUFFICIENCY

Improved financial performance in any corporation depends on increasing revenues relative to costs. As this Committee has recognized, in the case of Amtrak, which already is squeezing nearly all the revenue it can out of its equipment fleet, revenue growth will require a substantial capital investment during the coming years. At the same time, however, Amtrak's goal of eliminating its need for federal operating support will depend on its ability to control costs—inflation, run-away health and benefit expenses, and requirements imposed by law that can increase the cost of providing rail passenger service.

The keys to Amtrak's success in reducing its need for federal operating assistance, and indeed to its future role in the national transportation system, will depend primarily on its ability to invest both in new equipment and plant modernization, and to control costs. I would like to turn to these two issues in greater detail.

A. *Investing In Amtrak's Future.*—The primary fuel that fed Amtrak's dramatic financial improvement during the 1980s was the nearly $2.2 billion in federal capital assistance appropriated to Amtrak between 1971 and 1984. This capital enabled us to purchase our fleet of Amfleet and Superliner cars, as well as over 200 diesel and electric locomotives; to restore and modernize hundreds of Heritage passenger cars; to acquire and modernize several of Amtrak's major equipment overhaul facilities; and to invest in new equipment and machinery that could vastly improve car, locomotive and track maintenance. The result, coupled with significant productivity improvements agreed to by Amtrak's labor organizations, has been dramatic: a 50 percent improvement since 1981—from 48 percent to 72 percent—in Amtrak's ability to cover costs with revenue.

It will take a similar capital investment to give Amtrak the tools—equipment and modernized facilities—to match the financial improvement of the 1980s and enable it to cover 100 percent of its operating costs with revenues. Amtrak's capital needs, while modest for a Class I railroad with a $2 billion operating budget, nonetheless are significant. During the current decade, Amtrak will need federal, state and private support to fund numerous essential capital programs:

—Some 270 new, state-of-the-art locomotives will be needed to replace exhausted equipment and to provide additional motive power for longer trains and potential new services.

—Approximately 175 new Superliner and 307 Viewliner cars will be needed to meet the growing demand for rail passenger service on existing, capacity-constrained routes, to replace the 40-year-old Heritage sleeping car fleet, and to add new routes and frequencies where economically justified. The new equipment will be more efficient to operate and carry a larger number of passengers in a more pleasant, amenable environment, thereby generating significant additional revenues. As noted, Amtrak intends to go forward this year with the initial acquisition of at least 75 new Superliner cars.

—Amtrak's maintenance and overhaul facilities must be upgraded with new, more efficient equipment and redesigned to permit important cost-saving productivity improvements. The result will be improved equipment reliability, better maintained cars and locomotives, reduced maintenance costs, and better working conditions for Amtrak's employees.

—Infrastructure improvements to the Northeast Corridor to provide better than 2 hour 15 minute service between Washington and New York and at least 2 hour 59 minute service between New York and Boston will generate significant incremental revenue and ridership for Amtrak and further solidify Amtrak's predominance as the carrier of choice in the Northeast Corridor. This in turn will ease the need for expensive and environmentally-intrusive highway and airport expansion programs. Amtrak is working with the Coalition of Northeastern Governors (CONEG) and the U.S. Department of Transportation to undertake a state/Amtrak/federal program to fund improvements to the rail line north of New York and to acquire the new "tilt technology" passenger cars that will be required to meet demand for high-speed rail passenger service on the Northeast Corridor.

—Badly needed improvements to other rail corridors, such as between Los Angeles and San Diego and on several routes out of Chicago, would provide faster travel times and more reliable service, thereby improving revenues and demand. Capital funding will be required to upgrade the road bed, eliminate grade-crossings, and modernize signalling systems.

Amtrak intends to look to both the private sector and to federal and state sources, as well as internally, to help fund these critical capital needs. States such as Alabama, California, Illinois, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Pennsylvania and Wisconsin continue to provide leadership and foresight with respect to statewide rail passenger service through financial support for many important local projects. For example, California voters are considering several separate, multi-billion dollar rail bond issues this year that would fund numerous intercity and commuter railroad right-of-way and station improvements, as well as a high-speed rail passenger system. Michigan continues to fund various grade-crossing improvements and track upgrades along Amtrak lines within the state. Illinois has been particularly active in station improvements and, recently, in helping to preserve rail passenger service on the Chicago-St. Louis line. New York has made important contributions to upgrading trackage and service north of New York City and has provided significant funds for the Westside Connection, which is expected to open in April 1991 and will directly tie upstate New York rail service into the Northeast Corridor rail line. New Jersey joined with Amtrak in restoring the Atlantic City rail line. In addition, with this Subcommittee's direction, New Jersey and Pennsylvania are contributing to the installation of Centralized and Electric Traffic Control (CETC) on the Northeast Corridor.

Amtrak also will continue to look internally to its various revenue-enhancement programs as a source for self-generated capital. In fiscal year 1990, self-generated capital is projected to exceed $50 million and can be expected to grow during the 1990s. Substantial capital for new equipment also is available from the private sector, but carries an added interest charge that must be paid with revenues that otherwise could be used to reduce federal operating support.

Clearly, however, making up for deferred capital investment during the 1980s and achievement of Amtrak's goal of eliminating its operating losses will be possible only with a federal capital investment considerably in excess of the level appropriated to Amtrak in recent years. In addition, the willingness of the private sector to lend Amtrak funds for new equipment depends greatly on the federal government's commitment to share in Amtrak's future. Appropriation of the full $188 million in capital funds requested by Amtrak for fiscal year 1991 will be critical to Amtrak's ability to secure necessary funding from the private sector and to make the capital investments we need to improve and grow. New equipment and plant modernization will require capital funding from all sources—federal, private, state and Amtrak—of at least $300 million each year during the 1990s, with larger one-time capital investments for a number of years if we are to make the improvements needed for genuine high-speed rail passenger operations in such congested areas as the Northeast Corridor, both north and south of New York, and the Los Angeles-San Diego corridor.

For several years, Amtrak has advocated creation of a unified surface transportation trust fund, supported by federal gasoline "user fees," that would provide in a consistent and coordinated manner the federal investment in surface transportation. Both Amtrak's depreciation and its expanding capital needs for the next decade could be met by allocating just a penny—one cent—of federal gasoline user-fee revenues to Amtrak. With this relatively modest financial support, Amtrak would be able to provide enhanced conventional and high-speed rail passenger service that would alleviate growing air and highway congestion in many areas of the nation at far less cost and with less adverse environmental impact than the enormously expensive construction of new airports and highways. The result would be an Amtrak, free of the uncertainties of the annual appropriations process, ready and able to meet this nation's transportation needs in the next century.

We look forward to working with Congress this year as it examines the nation's surface transportation infrastructure deficiencies and considers proposals for a more balanced and coordinated national transportation policy. As it does so, Amtrak urges Congress to put aside the traditional mode-specific interests that have produced conflicting, contradictory transportation policies and to recognize the importance to our future of a more farsighted and balanced approach. Intercity rail passenger service has an important role to play in this country's future transportation system; capital funding support from a unified surface transportation trust fund would provide Amtrak with the ability to attain its full potential.

B. *Controlling Costs.*—Amtrak's success at improving revenues will not result in a better bottom line unless it is accompanied by success in controlling operating costs. During the 1980s, the rate of growth in revenues far exceeded that of expenses, resulting in a significant improvement in the revenue-to-cost ratio. The new decade will bring numerous obstacles to continuing this trend. For example, legislation pending in Congress to ensure the accessibility of transportation services and accommodations to individuals with disabilities would require capital improvements to the vast majority of Amtrak's stations and possibly changes in the design of new equipment that could adversely impact revenue. Amtrak is committed to providing superior transportation services to our disabled, elderly and other mobility-impaired passengers. Nonetheless, this commitment will generate sizable costs that must be absorbed.

More unique to Amtrak are legislative proposals now pending before Congress that would require Amtrak to retrofit existing equipment to eliminate the current requirement on long-distance trains to release wastes on the right-of-way. As discussed in more detail below, Amtrak supports eliminating this practice. However, retrofitting equipment comes with a high price tag that Amtrak must necessarily look to the federal government to help fund.

A longer-term issue of critical importance will be the willingness of Amtrak's employees to agree to the changes necessary to contain spiraling health and welfare costs and changes in outmoded work rules that severely impede productivity and limit Amtrak's ability to pay wage increases. Employee compensation accounts for nearly 60 percent of Amtrak's total operating costs. We cannot hope to meet our goals for the year 2000 without significant improvements in these areas.

1. *Waste Disposal From Long-Distance Trains:* Amtrak's long-distance passenger cars—indeed, all long-distance passenger cars in the world—were specifically designed to release wastes en route in order to avoid the need for periodic stops to empty waste retention tanks. Although three federal government studies have concluded that there is no evidence of a health risk from this practice, Amtrak has come under increasing criticism during the past two years for continuing this practice and several bills have been introduced in the House and Senate that would re-

quire Amtrak to retrofit its equipment with new waste systems that would eliminate en route disposal on the right-of-way. The Senate recently passed an amendment sponsored by Senator Orrin Hatch to the National and Community Service Act that would give the Surgeon General the authority to re-regulate waste disposal from Amtrak trains. Several lawsuits also have been initiated by states against Amtrak that seek orders requiring Amtrak to immediately cease releasing wastes en route, a requirement with which Amtrak simply has no ability to comply and which necessarily would require the cessation of train service to that state and, in many cases, other states also served by those trains.

Amtrak recognizes and appreciates the concerns that have been raised regarding this issue. In August 1989, Amtrak initiated an aggressive research and development program to identify the technology for new waste systems capable of retaining up to 72 hours of wastes without emptying. In addition, Amtrak is working closely with the Federal Railroad Administration to undertake the research directed by Congress in this area in the fiscal year 1990 Transportation Appropriations Act. New prototype waste systems have been installed on Amtrak trains to test the systems for their ability to handle the rigors of transcontinental rail passenger service. Once the new technology is tested, Amtrak will be in a position to advise Congress of the capital costs of the systems for new cars, the feasibility and cost of retrofitting existing equipment, and the operating costs associated with emptying and servicing the new waste systems. Here, too, Amtrak must look to the federal government to provide the capital with which to undertake a retrofit program.

Provisions of several of the legislative proposals on this issue would authorize Amtrak to impose a ticket tax to help pay for retrofitting equipment. However, Amtrak believes such a ticket tax would be counter-productive and actually result in the loss of revenue, since we already consciously try to maximize passenger revenues by charging the highest possible fares in a highly competitive market. Amtrak would support legislation that requires all new passenger cars to be equipped to eliminate the release of untreated wastes on the right-of-way. We also would support a requirement to retrofit existing equipment built after 1971 with new waste disposal systems, provided the specific funds to do so are appropriated for this purpose. Given Amtrak's multi-state operations, however, it is essential that the law be clarified to make clear that Amtrak is exempt from state and other federal laws that go beyond these reasonable provisions and the application of which necessarily would result in curtailing or eliminating much of Amtrak's service.

2. *Controlling Costs Through Improved Productivity:* Amtrak's considerable success at controlling expenses during the past decade can be attributed in large part to productivity improvements agreed to by the labor organizations representing Amtrak's operating employees (locomotive engineers, conductors and trainmen) and to agreements reached with other Amtrak labor organizations to limit the growth in wages to a smaller percentage than employees of other railroads might expect. These agreements were precedent-breaking in an industry known for its adherence to tradition. Amtrak's operating crews now work on an eight hour per day/40 hours per week basis, with time-and-one-half for overtime in excess of 40 hours, rather than on the traditional mileage basis. In addition, Amtrak has been able to extend the length of runs and to reduce the size of the crews on many of its trains.

Amtrak and its labor organizations have been attempting to negotiate new labor agreements for the past two years. Under the Railway Labor Act, agreements never expire; rather the terms of the last labor agreement remain in force until new terms are fixed. Amtrak's labor organizations are requesting changes in various work rules, as well as sizable wage increases to bring the wages of Amtrak's agreement-covered employees to the same level as commuter and freight railroad employees. Meeting just these wage concessions would cost Amtrak an additional $84 million each year.

Amtrak very much recognizes and appreciates the impressive contribution its employees have made to Amtrak's success. Nonetheless, at a time when Amtrak is still losing nearly half a billion dollars each year, we cannot meet our employees' wage expectations unless Congress and the Administration acquiesce in an $84 million increase in Amtrak's need for federal operating support—a 17 percent operating grant increase in fiscal year 1991. The average total compensation during fiscal year 1989 for Amtrak's full-time agreement-covered employees was $45,400. I believe that we must make significant improvements in productivity to justify significant increases in these costs.

In contrast with the major productivity gains that flow from the rules changes negotiated with the operating crafts, Amtrak employees in non-operating crafts—maintenance of equipment; maintenance of way; and clerical—continue to work under a multiplicity of rules and agreements, some of which date back to World

War I. Non-operating employees presently are represented by 15 different labor organizations and work under 25 separate labor contracts, each with its own seniority classifications and work rules.

For example, in the maintenance of equipment area, we operate under a craft system involving seven different labor organizations and agreements. Some of these agreements establish rigid work jurisdictions under which work is staffed according to task ownership rather than job efficiency. Thus, Amtrak employs 15 electricians to operate overhead traveling cranes for other workers at our Beech Grove facility; the electrician often is not assigned other work even when use of the crane is not needed. At other Amtrak facilities, such cranes are easily operated by the workers themselves regardless of craft. A change in rules to permit the Beech Grove cranes to be operated in the same manner as at other Amtrak facilities could save Amtrak $450,000 per year in reduced wages and benefits.

Similarly, removal of a door operator mechanism from a Superliner car requires a carman to unbolt the mechanism; an electrician to remove the electrical leads; a pipefitter to disconnect the air pipes; and a machinist to remove the mechanism. Reinstallation then requires the work of all four employees in reverse. This work easily could be accomplished by a single employee qualified to do the whole job in far less time.

In the clerical support area, Amtrak is trying to rationalize a pay structure that now recognizes 378 separate rates of pay. Such a system preserves—and even promotes inefficiencies. Moreover, some of these rates of pay far exceed the rates for equivalent jobs in the airline and trucking industries. Rationalization of these pay rates recently was supported by a joint labor-management Study Commission undertaken by the TCU, which represents Amtrak's clerical employees, and the National Conference Committee.

3. *Health and Welfare Costs:* A major concern for all employers in this country is the rising cost for employee health care. Not only are these costs rising faster than inflation for Amtrak, but they are becoming a larger and larger portion of Amtrak's total employee cost.

According to a national survey conducted by Foster Higgins, a Human Resources consultant, the average employer cost in the United States for health care coverage under indemnity plans in 1988 was $2,160 per employee; in Amtrak's case, annual premiums during that year cost over $3,650 per employee—69 percent higher than the average. Premiums under the Travelers GA 23000 plan, which provides health care benefits for the majority of Amtrak's agreement-covered employees, totaled more than $84 million in 1989 and are expected to rise to over $100 million $4,818 per employee—this year. Clearly, these costs must be controlled if we are to be able to offer our employees increased wages.

Changing inefficient work rules and controlling escalating health and welfare costs will permit a far more efficient and cost-effective operation. In turn, Amtrak is prepared to share the savings by increasing wages for most of our employees. Higher wages will better enable Amtrak to retain skilled workers and, I am sure, improve employee morale. This must be a give-and-take process, from which both employees and Amtrak's stockholder—the federal government—benefit. It is my fervent hope that Amtrak and its labor organizations can reach an amicable, fair agreement in the near future without resorting to congressional intervention to fix agreement terms or to prevent a strike. On Amtrak's behalf, I pledge our commitment to fair and reasonable negotiations with labor, and I know that, posturing aside, our labor organizations are committed to the same. Amtrak's success at eliminating its need for federal operating support, and indeed its role in the future of the nation's transportation system, ultimately depend on this mutual commitment.

CONCLUSION

Amtrak is entering its 20th year in a stronger, more promising position than most anyone could have imagined just five years ago. We can and want to play an even greater role in alleviating the pressures that are so strangling the nation's transportation system and are ready to be a leader in the development and operation of high-speed rail systems. The key, as we have stated so many times during the past decade, will be capital investment in new equipment and plant modernization. The easy answer would be allocation of a small amount of federal gasoline user fee revenues for use by Amtrak to fund its capital needs. I strongly urge the Members of this Subcommittee to support such an allocation in the event the federal gasoline tax is increased and I ask your assistance in finding the resources within the federal budget that we need so badly for the next fiscal year.

National Railroad Passenger Corporation 1990 Legislative Report

The National Railroad Passenger Corporation [Amtrak] submits this 1990 Legislative Report to the President and to the Congress pursuant to section 308(b) of the Rail Passenger Service Act, 45 U.S.C. 548(b). That provision directs Amtrak to recommend desired changes in the law that could, for example, improve productivity, enable the corporation to operate more efficiently, or reduce Amtrak's need for federal financial assistance.

The House and Senate both have approved separate versions of an Amtrak authorization bill that would authorize total operating and capital funding for Amtrak in the amount of $684 million for fiscal year 1991 and $712 million for fiscal year 1992. The two bills are awaiting a conference to reconcile differences. Enactment of an Amtrak authorization bill would very positively impact Amtrak. Because Amtrak's need for federal operating assistance has been steadily declining, funding at the levels contemplated by both the House and Senate bills would provide Amtrak with critically needed capital assistance essential to acquire new equipment and modernize inefficient facilities. The Senate bill includes an important provision, recommended by Amtrak in its 1989 Legislative Report, that would enable Amtrak to save a total of approximately $16 million during 1989 and 1990 by accelerating by two years application of a new law that will permit railroads to pay into the Railroad Unemployment Insurance trust fund on an experience basis rather than on the current "per employee" basis. In addition, both the House and Senate bills contain an identical provision that would remove a roadblock to the operation of commuter service between Northern Virginia and Washington, D.C., by capping liability for injuries resulting from operation of the service. Amtrak has been designated to operate the new commuter service. Other Amtrak-related provisions in the bills include various studies of new rail passenger routes and relief for railroad and trucking employees from the collection of income taxes by more than one state. Amtrak is optimistic that an authorization bill will be enacted this year.

FISCAL YEAR 1991 GRANT REQUEST

For fiscal year 1991, Amtrak's total budget is projected to be approximately $2 billion. Amtrak expects revenues to cover 78 percent of its operating costs, and is requesting $495 million in federal operating assistance to offset the remaining 23 percent of operating costs. In addition, Amtrak requests $1 million for projected labor protection payments, and $188 million in federal capital assistance to supplement self-generated funds and funds borrowed in the private sector for an ambitious capital program to include the acquisition of a significant number of new long-distance passenger cars and locomotives. The total Amtrak grant request of $684 million is consistent with the amount that would be authorized under both the Senate and House versions of the pending Amtrak authorization bill. In constant dollars, the federal operating support required by Amtrak in fiscal year 1991 equates to the earliest years of Amtrak and represents a reduction of 52 percent in the ten years since 1981. Moreover, as shown later in this Legislative Report, the real cost to the American taxpayer for operating a national intercity rail passenger system is even less, indeed far less, than the $495 million that Amtrak is requesting for operations.

Amtrak's 1988 and 1989 Legislative Reports proposed numerous legislative changes that would significantly reduce the cost of providing rail passenger service. Amtrak continues to strongly support these legislative proposals and incorporates them herein by reference. These past proposals include the following:

Employee injury claims.—Amtrak has proposed a three-year test under which its employee injury claims would be resolved under no-fault state workers' compensation laws rather than under the tort-based Federal Employers' Liability Act [FELA]. This proposal will improve workplace safety as well as save significant funds that currently support the legal fees associated with lawsuits.

Limitation on environmental liability.—Properties formerly owned by the bankrupt Penn Central Railroad and transferred to Amtrak in 1976 are now subject to subsequently enacted federal legislation that imposes liability for the enormous cost of cleaning up contamination and pollution that occurred under Penn Central ownership. Amtrak has proposed that the costs for cleaning up such pollution should be charged back to the Penn Central or to the federal government's Super Fund if the Penn Central cannot be held liable for the costs.

Freedom of Information Act.—Although Amtrak is a for-profit corporation operating in a highly competitive marketplace, it is subject to the Freedom of Information Act [FOIA] and is required to provide public access to a broad variety of documents and information. The FOIA is not applicable to other railroads or private corporations. The availability of information on commercial bids has the effect of increasing the cost of goods procured by Amtrak. In addition, limits on legal discovery can be circumvented through FOIA requests, thereby aiding litigants against Amtrak. Amtrak should be excluded from FOIA coverage.

Tax-Exempt bonds.—Amtrak has proposed that it be authorized to issue tax-exempt bonds as a means of reducing its cost for capital from the private sector.

These proposals represent good public policy that would significantly benefit Amtrak, and Amtrak will continue to work closely with the Congress during the coming year to seek their enactment.

A PLAN TO ELIMINATE FEDERAL OPERATING ASSISTANCE

As Amtrak enters a new decade and looks to a new century beyond, it intends to achieve a goal that no passenger railroad in the world today meets: elimination of any need for federal operating support. In fiscal year 1981, revenues generated by Amtrak covered just 48 percent of the cost of operating national rail passenger service. In fiscal year 1989, productivity gains and revenues of nearly $1.3 billion enabled Amtrak to cover 72 percent of those costs. It is now Amtrak's specific goal to cover 100 percent of operating costs by the year 2000.

Achievement of this goal will depend on two critical factors: the availability of sufficient capital to acquire the passenger cars and locomotives that Amtrak needs to maximize revenue, and to modernize inefficient maintenance facilities; and an Amtrak budget that accurately reflects the real cost of providing national intercity rail passenger service. The ultimate result will be an Amtrak capable of providing enhanced intercity rail passenger service wherever it can be economically justified at no annual operating cost to the federal government. Moreover, Amtrak's need for continued federal capital support into the next century will sharply diminish as current real estate and revenue enhancement programs attain their full potential.

Because Amtrak's primary objective for the coming years will be to eliminate its need for federal operating support, these two critical factors are discussed more fully below.

CAPITAL INVESTMENT: THE KEY TO AMTRAK'S FUTURE

The primary fuel that fed Amtrak's dramatic financial improvement during the 1980's was the nearly $1.3 billion in federal capital assistance appropriated to Amtrak between 1976 and 1984. This capital enabled Amtrak to purchase its fleet of Amfleet II and Superliner cars and over 200 diesel and electric locomotives; restore and modernize hundreds of Heritage passenger cars; acquire and modernize several of Amtrak's major equipment overhaul facilities; and invest in new equipment and machinery that could vastly improve car, locomotive and track maintenance. The result, beginning in 1981 and continuing to the present, has been dramatic: a 50 percent improvement, from 48 percent to 72 percent, in Amtrak's ability to cover costs with revenue.

It will take a similar capital investment to give Amtrak the tools—equipment and modernized facilities—to match the financial improvement of the 1980's and enable it to cover 100 percent of costs with revenues. Amtrak's capital needs, while modest for a Class I railroad with a $2 billion operating budget, nonetheless are significant. During the next decade, Amtrak will need federal, state and private support to fund numerous essential capital programs:

Some 270 new, state-of-the-art locomotives will be needed to replace exhausted equipment and to provide additional motive power for longer trains and potential new services.

Approximately 175 new Superliner and 307 Viewliner cars will be needed to meet the growing demand for rail passenger service, to replace the 40-year-old Heritage sleeping car fleet, and to add new routes and frequencies where economically justified. Amtrak presently is capacity-constrained and is turning away hundreds-of-thousands of passengers, particularly for first-class sleeping space. The new equipment will be more efficient to operate and carry a larger number of passengers in a more pleasant, amenable environment, thereby generating significant additional revenues.

Amtrak's maintenance and overhaul facilities must be upgraded with new, more efficient equipment and redesigned to permit important cost-saving productivity improvements. The result will be improved equipment reliability, better maintained cars and locomotives, reduced maintenance costs, and better working conditions for Amtrak's employees.

Infrastructure improvements to the Northeast Corridor to provide better than 2 hour 30 minute service between Washington and New York and at least 2 hour 59 minute service between New York and Boston will generate significant incremental revenue for Amtrak and further solidify Amtrak's predominance as the carrier of choice in the Northeast Corridor. Improvements to other transportation corridors, such as between Los Angeles and San Diego, would have a similar positive impact.

Finally, investments must be made to improve Amtrak's ability to earn revenue from its real estate and revenue enhancement programs, which include carrying mail for the U.S. Postal Service, contract commuter rail operations, cogeneration, real estate development, car maintenance, and rail welding for commuter authorities.

Amtrak intends to look to both the private sector and to federal- and state sources, as well as internally, to help fund these critical capital needs. Self-generated capital, which will exceed $50 million in fiscal year 1990, can be expected to grow during the 1990's. Substantial capital from the private sector also is available, but carries an added interest cost that must be paid with revenues which otherwise could be used to reduce federal operating support. Clearly, however, making up for deferred capital investment during the 1980's and achievement of Amtrak's goal of eliminating its operating losses will require a federal capital commitment in excess of the level appropriated to Amtrak in recent years.

The 1980's saw federal capital appropriations essentially dry-up: from $221 million in fiscal year 1981 to just $2 million in fiscal year 1986 to some $30 million annually toward the end of the decade. As the following chart illustrates, federal capital support received between fiscal year 1985 and fiscal year 1989 amounted to just $156.4 million, far less than the $815.9 million of depreciation booked in those years. A continuation of this capital starvation would not only make it impossible to continue to decrease our operating loss but would move Amtrak rapidly toward self-liquidation.

COMPARISON—AMTRAK CAPITAL VERSUS DEPRECIATION FOR 5-YEAR PERIOD FISCAL YEARS 1985 TO 1989

[In millions of dollars]

Fiscal year	Federal capital grant	Self-generated Amtrak capital	Total capital	Depreciation	Total shortfall
1985	52.3	30.3	82.6	169.6	87.0
1986	2.0	28.7	30.7	163.4	132.7
1987	26.5	38.2	64.7	163.4	98.7
1988	46.2	30.2	76.4	153.7	77.3
1989	29.4	40.0	69.4	165.8	96.4
Total	156.4	167.4	323.8	815.9	492.1

Fortunately, Congress succeeded in increasing Amtrak's capital appropriations for fiscal year 1990 to $83 million. The Amtrak authorization bills now pending would authorize significantly increased capital grants for the next two years.

During fiscal year 1990, Amtrak hopes to fund capital projects costing approximately $200 million out of needed projects totaling well over $300 million. In addition to the $83 million in federal capital assistance, approximately $50 million will be generated by Amtrak from its revenue enhancement and real estate development programs, and the remainder will be borrowed from the private sector. However, if Amtrak is to address its deferred and future capital needs, capital funding from all sources of at least $300 million each year will be required during the 1990's, with larger one-time capital investments for a number of years if we are to make the improvements needed for genuine high-speed rail passenger operations in such congested areas as the Northeast Corridor, both north and south of New York.

For several years, Amtrak has advocated creation of a unified surface transportation trust fund, supported by federal gasoline "user fees," that would fund in a consistent and coordinated manner the federal investment in surface transportation. Both Amtrak's depreciation and its expanding capital needs for the next decade could be met by allocating just a penny—one cent—of federal gasoline user-fee revenues to Amtrak. With this relatively modest financial support, Amtrak would be able to provide badly needed and truly high-speed rail passenger transportation service that would alleviate growing air and highway congestion in many areas of the nation at far less cost and with less adverse environmental impact than the enormously costly construction of new airports and highways. The result would be an Amtrak, free of dependence on the federal government for operating support, ready and able to meet this nation's transportation needs in the next century.

During 1990, Congress will examine the nation's surface transportation infrastructure deficiencies and give careful consideration to a balanced and coordinated National Transportation Policy. As it does so, Amtrak urges Congress to put aside the traditional mode-specific interests that have produced conflicting, contradictory transportation policies and to recognize the importance to our future of a more consistent and balanced approach. Intercity rail passenger service has an important role to play in this country's future transportation system; capital funding support from a unified surface transportation trust fund would provide Amtrak with the tools it needs to attain its full potential.

AN AMTRAK BUDGET THAT REFLECTS THE REAL COST OF PROVIDING INTERCITY RAIL PASSENGER SERVICE

Although Amtrak is requesting a fiscal year 1991 operating grant of $495 million, the actual amount of federal assistance needed to meet the real costs of operating Amtrak's intercity rail passenger system will be far less. The reason is that two components of Amtrak's budget artificially inflate—indeed, nearly double—the real cost of intercity rail passenger service to the federal taxpayer. The first involves the large portion of Amtrak's operating subsidy that is paid back to the federal government in the form of contributions to the Railroad Retirement trust account and the Railroad Unemployment Insurance trust account that are in excess of actual payouts to Amtrak retirees and employees; the second relates to the use of Amtrak's budget to provide federal support for state commuter operations on the Northeast Corridor. In addition, the requirement that Amtrak resolve its employee injury claims under the Federal Employers' Liability Act [FELA] rather than under state workers' compensation laws exacts an additional cost that could be eliminated.

A. *Repaying appropriated funds to the federal government.*—Amtrak, by law, participates in the Railroad Retirement system; a federal pension program that provides retirees a Social Security equivalent and an additional railroad pension, called Tier II benefits. The system operates on a pay-as-you-go basis, with railroads and active employees taxed at a level sufficient to fund benefits going to all the existing retirees and their dependents. Because the number of retirees and dependents receiving Railroad Retirement benefits is nearly four times greater than the number of active employees, taxes, particularly for the Tier II component, are very high. Amtrak, a railroad with high, stable employment and relatively few retirees, annually must pay far more money into the Railroad Retirement trust fund than is actually paid out to Amtrak retirees in yearly benefits. During fiscal year 1991, these excess payments to the federal government by Amtrak are expected to exceed $135 million.

The same overpayments are made by Amtrak under the Railroad Unemployment Insurance Act [RUIA], a federal program that pays unemployment and short-term sickness benefits to railroad employees. Although the Railroad Unemployment Insurance system is scheduled to convert to an experience-based system over a three year period beginning in fiscal year 1991, Amtrak's RUIA tax liability during fiscal year 1991 still is expected to exceed the amount of RUIA benefits paid to Amtrak employees by some $8 million. In addition, Amtrak will be required to pay an additional $9 million in "RUIA repayment taxes," a tax on railroads that is used by the federal government to reimburse the Railroad Retirement trust account for monies "borrowed" in the past by the Railroad Unemployment Insurance trust account to pay benefits during years of high freight railroad unemployment. The result is that Amtrak expects to pay into the Railroad Unemployment Insurance trust account a total of $17 million ($8 million in excess taxes and $9 million in repayment taxes) more than the federal government will pay out to Amtrak beneficiaries.

Payments made to federal trust funds are counted as revenue by the federal government for budget accounting purposes and are available to offset federal expenditures. Amtrak's Railroad Retirement and RUIA tax payments are treated as federal revenue available to pay benefits to Amtrak retirees and employees. However, any excess payments—the $135 million in Railroad Retirement taxes and $17 million in RUIA taxes, a total of $152 million—are then available to offset other federal expenditures (in this case benefits to other railroad retirees and employees). The peculiar result is that Amtrak is appropriated funds which it then gives back to the federal government in the form of these excess payments for use again elsewhere by the government. Because these funds are paid back to the Treasury, the appropriation of this $152 million to Amtrak does not result in a net outlay of federal funds and thus there is no ultimate impact to the federal taxpayer. Nonetheless, Amtrak's need for federal operating assistance presently must be increased by $152 million in order for Amtrak to pay this money back to the government.[1]

Amtrak's budget should not be forced to reflect payments that ultimately have no net impact on the federal budget. The real cost of operating a national rail passenger system is less than the American taxpayer is led to believe; the manner in which Amtrak's operating grant is calculated should be changed to reflect only this real cost.

B. *The cost of Amtrak's Northeast Corridor operations.*—In 1976, the federal government transferred to Amtrak ownership of the Northeast Corridor railroad right-of-way between Washington, D.C., and New Rochelle, New York; New Haven and the Massachusetts-Rhode Island border; New Haven and Springfield; and Philadelphia and Harrisburg. The Northeast Corridor is one of the nation's most important transportation assets. In addition to 11 million intercity Amtrak passengers, state commuter authorities carried over 60 million passengers over portions of the Corridor in 1989 and freight movements exceeded 35 million tons.

Amtrak is only a minority user of many sections of the Northeast Corridor right-of-way that it owns, with the majority of trains belonging to the commuter authorities. Nonetheless, in allocating costs for maintaining and operating the Northeast Corridor between Amtrak, commuter authorities and freight railroads, the Interstate Commerce Commission [ICC] has ruled that the owner of the rail line—Amtrak—is primarily responsible for the majority of the base costs related to upkeep of the high-speed Northeast Corridor main line. The other users of the line are required to pay only the "incremental" or additional cost resulting from their specific operations. The result is that Amtrak must pay considerably more for its operations over the Northeast Corridor than commuter railroads pay, even though commuter usage of the line far exceeds intercity operations.

The price for this "ownership penalty" is significant. During fiscal year 1990, the cost of maintaining and operating the Northeast Corridor will exceed revenues generated by Amtrak and payments received from commuter and freight operators by nearly $240 million. Amtrak currently must foot this entire loss. If all users of the Northeast Corridor were required to pay their fair share—or fully allocated cost—for maintaining and operating the rail line, the amount Amtrak would have to pay would be reduced by approximately $33 million. This savings is projected to grow to some $47 million in fiscal year 1991. In actuality, this sum constitutes a subsidy by the federal government of Northeast Corridor state commuter rail operations that presently is funneled through Amtrak's budget.[2]

Amtrak is not recommending that the commuter authorities be required to assume these costs that currently are funded through Amtrak's budget; a proposal to do just this was rejected by Congress in 1985. Nonetheless, Amtrak believes that its budget should not be forced to reflect federal assistance to state commuter railroads—assistance that will account for nearly 10 percent of Amtrak's fiscal year 1991 operating grant. This federal support for commuter rail operations now provided through Amtrak's budget should more properly be provided by the Urban Mass Transportation Administration as a grant to Amtrak on behalf of the commuter authorities.

C. *The real cost of Amtrak service.*—Amtrak is requesting $495 million for operating assistance during fiscal year 1991. However, the real amount of federal operating support required to support just intercity rail passenger service during fiscal year 1991—derived by deducting the $152 million in excess Railroad Retirement and RUIA payments that Amtrak will give back to the federal government, and the $47 million that represents federal support of state commuter operations—will be just $296 million.

In addition, because federal law requires that Amtrak resolve its employee injury claims under the tort-based, costly Federal Employers' Liability Act [FELA] rather than under state no-fault workers' compensation laws, the cost of intercity operations are inflated at least $17 million annually. As noted, Amtrak has proposed a test under which the injury claims of its employees would be handled for a three year period under state workers' compensation laws. Such a test would provide Congress with the empirical data it needs to consider the controversial FELA issue in a reasoned, balanced manner. The result would be improved work place safety and a significant reduction in the cost of providing intercity rail passenger service.

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[1] Amtrak has urged the special commission established by Congress to study the Railroad Retirement system to recommend changes in the law that would eliminate the inequity of large overpayments by Amtrak. Placing the retirement system on an experience-rated basis would relieve Amtrak of the overpayments. With respect to Amtrak's current excess RUIA payments, the Amtrak authorization bill, as passed by the Senate, would address at least that portion of the excess payments Amtrak currently must pay until the RUIA system begins its transition to an experience-based program in 1991.

[2] In 1986, Congress enacted a law that requires Northeast Corridor freight operators to pay their fully allocated cost—not just their incremental cost—of operating on the Corridor. Thus, the federal subsidy benefits just the state commuter operations.

If the savings in operating costs that Amtrak could achieve under state workers' compensation laws were added to the other $296 million in costs that should not be included in Amtrak's budget, Amtrak's requirement for federal operating support in fiscal year 1991 would be just $279 million rather than the $495 million it must request under the current budget methodology. This means that Amtrak will really cover 87 percent of the cost of its intercity service in fiscal year 1991. This is the real cost to the nation for providing a national rail passenger system, a cost that pales in comparison to public support for other modes of transportation, but one nonetheless that Amtrak is committed to eliminating during the course of this decade.

DEVELOPING THE POTENTIAL OF HIGH-SPEED AMTRAK SERVICE

In addition to eliminating its need for federal operating support, Amtrak is eager to develop and further assert its leadership in the area of high-speed rail passenger service. As the nation faces a new decade and century beyond, the importance of fully developing the potential of high-speed Amtrak service cannot be overstated. In many densely-populated transportation corridors, high-speed rail service offers a relatively low-cost, energy efficient and environmentally benign alternative to crowded highways and congested airports. Moreover, the cost for improved high-speed equipment and practicable improvements to existing rail lines to facilitate high-speed rail service is only a fraction of the enormous cost for new multi-billion dollar airports or highways.

Amtrak presently operates the only high-speed rail service in North America. Between New York and Washington, D.C., Amtrak trains operate at speeds of up to 125 m.p.h. Expanding such service to other important corridors—including New York-Boston, New York-Albany, Houston-Dallas, Los Angeles-San Diego, Chicago-Detroit, and numerous others—would provide significant benefits to our national and regional transportation systems. Amtrak has worked closely with a number of state and regional organizations to develop and implement high-speed rail service in the Northeast, the Midwest and in California. As the nation develops a new National Transportation Policy, the importance of high-speed rail corridors for a balanced national transportation system should be recognized and financially supported.

To meet the challenge of faster rail service, Amtrak is working hard to identify new passenger car and locomotive technologies and designs to enable its trains to operate at higher speeds over existing rail lines. For example, the use of "tilt technology" in passenger car designs to counter centrifugal forces will enable trains to go faster around curves, thereby reducing travel times. New electric, diesel and dual power locomotive designs similarly will enable trains to reduce the amount of time lost in slowing down to take curves and in accelerating to full speed, as well as to operate at significantly higher speeds. For example, between New York and Boston, these new technologies, together with modest track improvements and electrification of the line between New Haven and Boston to both improve train speeds and eliminate the current need to switch from electric to diesel locomotive power north of New Haven, could reduce running time from the current 4 hour 30 minutes to under three hours. Interim travel times well under four hours could also be achieved with tilt equipment as the track work and electrification proceed. The result would be improved ridership and revenues for Amtrak. More importantly, service between New York and Boston in three hours or less could significantly reduce the large number of flights out of highly-congested Logan Airport to New York area airports, thereby relieving pressure for a new Boston-area airport as well as congestion at New York's three major airports. Tilt technology and advanced locomotives could similarly improve travel times in other rail corridors.

Amtrak further believes that speeds considerably in excess of 125 m.p.h.—probably as fast as 150 m.p.h.—are possible on the existing Northeast Corridor right-of-way through the use of tilt technology and modest track and interchange improvements. These speeds could permit express trains to travel between Washington-New York in little over two hours. An important factor in improving train speeds will be to upgrade the existing electric traction power system that enables Amtrak to use electric, rather than diesel, locomotives between Washington and New Haven, and to extend the electric traction system north of New Haven to Boston. This would ensure the fastest, most efficient and reliable operations on the Corridor and eliminate the time-consuming locomotive change at New Haven. Moreover, the air quality of urban areas, particularly in the densely populated Northeast, can be improved through use of electrically-powered trains instead of diesel locomotives.

Amtrak stands ready and eager to work with federal and state agencies to further the development of high-speed rail systems, including those based on magnetic levitation. Amtrak's considerable expertise in operating and maintaining high-speed passenger trains, as well as its long experience in developing and operating sophisticated state-of-the-art train dispatching and operation systems, places it in a uniquely qualified position to shape and operate this nation's rail passenger transportation systems of the future, whether based on magnetic levitation or on more conventional high speed rail technology.

CONCLUSION

With adequate capital support, continued improvement in revenues, efficiency and productivity, and a budget environment that allows Amtrak to seek only those funds necessary to cover the real cost of operating the Amtrak system, Amtrak will be able to generate sufficient revenue to cover its full cost of operations. In the process, Amtrak can rebuild and augment its equipment fleet and its facilities to provide top rate, reliable rail passenger service. Amtrak is ready for the challenges of a new decade and century beyond and is eager to work with Congress, the Administration and the private sector to develop the full potential of rail passenger service in this country.

AN ANALYSIS OF THE IMPACT OF THE ELIMINATION OF AMTRAK SERVICE

Amtrak is committed to eliminating the need for any federal operating support by the year 2000. Nonetheless, for the sixth straight year, the Administration has recommended that no federal funds be appropriated to Amtrak for next year. Congress has resisted this recommendation in the past and preserved a strong, national rail passenger system. Amtrak is now covering over 72 percent of its operating costs, making it one of the most efficient passenger railroads in the world. With continued federal capital support, and the elimination of costs presently included in Amtrak's budget that are unrelated to the provision of intercity rail passenger service, Amtrak can raise this percentage to 100 percent over the next ten years. However, elimination of current federal funding for Amtrak would bankrupt the railroad and force it to immediately discontinue all rail passenger service.

Elimination of Amtrak service would have dramatic implications for transportation in this country, for Amtrak's 23,500 employees, and for the federal taxpayer, who would lose service but nonetheless be required to pay billions of dollars in legally-required labor protection payments to unemployed Amtrak workers for years to come.

Some of the consequences and costs associated with the discontinuance of Amtrak service are detailed below.

COST OF ELIMINATING OR REDUCING AMTRAK FUNDING

1. *Amtrak cannot absorb additional unplanned reductions in its budget*

Nearly a decade of reduced federal funding for Amtrak has produced an efficient and cost-effective operation with little, if any, "fat" that can be eliminated without cutting service or seriously undermining the quality of service.

Federal capital grants, which totaled $221 million in fiscal year 1981, were drastically reduced to as little as $2 million in fiscal year 1986. Congress has recognized that improvements in Amtrak's performance depend on capital and last year was able to provide $83.6 million in federal capital support. Nonetheless, this is still far less than the amount needed to replace exhausted, unreliable and inefficient equipment and facilities. The result of reduced capital support thus is to actually increase operating costs in the long-term.

Federal operating support cannot be reduced by cutting routes. Under existing law, the elimination of service triggers labor protection benefits that are imposed under federal law and entitle employees who lose their jobs to as much as six years of salary. These payments exceed the savings that can be realized from eliminating individual routes.

2. *The elimination of federal support would result in the termination of intercity rail*

Although Amtrak will provide 75 percent of its own operating budget in fiscal year 1990, it depends on the federal government for the remainder. Without federal financial support, Amtrak service, as it exists today, would have to be terminated.

Amtrak as a corporate entity and an operating railroad would be dissolved and its assets transferred or scrapped; once liquidated, restoration of a national rail passenger system—acquiring passenger equipment and locomotives, restoring specialized maintenance facilities and train stations, as well as reorganizing an experienced labor pool and management to operate the system—would be extremely difficult. It took many years and a very significant public investment to make Amtrak service efficient and marketable. Recreating that effort at some future time could be even more difficult.

3. *Termination of service would produce an immediate unemployment impact and adversely impact the federal budget*

Termination of Amtrak service would result in the loss of 23,900 jobs—23,500 Amtrak employees and 400 employees with other railroads—nationwide, with significant consequences on the national economy.

Under current law, the discontinuance of Amtrak service would trigger $2.7 billion in legally-imposed labor protection payments to Amtrak employees over a six-year period.

Liability for fiscal year 1991 labor protection payments alone would be $795 million, significantly greater than Amtrak's fiscal year 1991 grant request.

Amtrak's assets would be insufficient to pay the labor protection claims, and Amtrak's employees would look to the federal government for payment. Thus, despite the termination of national rail passenger service, the federal taxpayer would be required to fund a multi-billion dollar bail-out for Amtrak.

Enormous administrative costs would fall upon the United States and others in dealing with the Amtrak bankruptcy estate, distributing necessary real estate and property to other users, and handling creditors.

4. *The cost of operating and maintaining the Northeast Corridor would fall on State commuter authorities and railroad freight shippers*

The Northeast Corridor is one of the nation's most important transportation assets. Intercity and commuter trains carried over 70 million passengers over portions the Corridor last year and freight shipments exceeded 35 million tons. In 1976, the federal government transferred ownership of the Corridor to Amtrak, although today Amtrak is only a minority user of most sections of the Northeast Corridor right-of-way that it owns, with the majority of trains belonging to the commuter authorities.

In allocating the costs for maintaining and operating the Northeast Corridor between Amtrak, commuter authorities and freight railroads, the Interstate Commerce Commission [ICC] has ruled that the owner of the rail line—Amtrak—is primarily responsible for the majority of the base costs related to upkeep of its high-speed Northeast Corridor main line. The other users of rail line are required to pay only the "incremental" or additional cost resulting from their specific operations. The result is that Amtrak must pay considerably more for its operations over the Northeast Corridor than commuter railroads pay, even though commuter operations far exceed intercity operations.

In this way, the federal government, through Amtrak's budget, helps subsidize state commuter rail operations over the Northeast Corridor. [Federal law enacted in 1986 gave relief to Amtrak for freight operations by requiring freight carriers to pay their full cost for operating on the Corridor.]

In fiscal year 1989, it cost Amtrak approximately $815 million to operate and maintain the Corridor for intercity, commuter and freight train use. However, revenues generated by Amtrak's intercity operations and payments received from state commuter authorities and freight carriers totaled just $562 million. The full amount of the short-fall—some $253 million—was absorbed by Amtrak even though only a portion of this amount went to support Amtrak's intercity operations. Indeed, if Amtrak service were eliminated entirely, the Corridor's other rail users or the federal government would have had to pick up an additional $118 million in costs to permit continued commuter and freight operations.

In fiscal year 1991, this additional amount is expected to grow to $127 million. If the federal government refused to pay this additional amount, either directly or through UMTA, the Northeast Corridor commuter operators and freight users would have to absorb them, in addition to the costs they already pay. This fiscal year 1991 cost likely would be allocated as follows:

Commuter authority or freight railroad	*Additional cost*
MDOT (Maryland)	$20,700,000
SEPTA (Pennsylvania)	12,000,000
NJT (New Jersey)	31,400,000
MBTA (Massachusetts)	10,800,000
Connecticut DOT	2,500,000
Conrail	49,600,000
Total	127,000,000

5. *The cost to Boston and Chicago commuters would increase*

Amtrak operates the MBTA rail commuter system serving the Boston metropolitan area. Elimination of federal funding for Amtrak would initially disrupt MBTA service—a new operator would have to be found to run the system, maintain the equipment, and employ and manage the manpower necessary to operate service. Moreover, MBTA's operating costs would increase significantly in the absence of cost-sharing with Amtrak for maintaining and operating the Northeast Corridor between the Massachusetts-Rhode Island border and Boston, as well as for using South Station, Back Bay Station and Rt. 128 Station.

If Amtrak's use and support of Chicago Union Station were discontinued, Chicago's Regional Transit Authority [RTA] would be faced with an increased cost of $4.2 million per year to continue to operate its commuter service used by 98,000 commuters per day in and out of Amtrak's Chicago Union Station.

6. *The elimination of Amtrak service would have a harsh effect on Northeast Corridor passengers with limited options*

In 1989, Amtrak carried over 30,000 non-commuter passengers every day between the cities located on the Northeast Corridor. Twice as many passengers traveled by Amtrak between and among the Northeast Corridor stations of New York, Newark, Philadelphia, Wilmington, Baltimore, and Washington as all the airlines combined. Since 1987, Amtrak has been the largest carrier in the New York-Washington city pair.

Between the end points of New York and Washington, Amtrak handled over 4,400—36 percent—of the 11,600 daily New York-Washington air and rail passengers (based on the last quarter for which air data was available), more than either the Eastern (now Trump) or Pan Am shuttles.

If Amtrak's Northeast Corridor service were eliminated, most of these riders would be forced to fly between Washington and New York and other Northeast Corridor destinations. To carry just the 4,400 passengers who daily travel between New York and Washington (1,617,000 annual riders), an additional 60 to 70 additional airline flights would be required each day—mostly during peak travel times.

It likely would be physically impossible for the already overcrowded Washington and New York airports to handle all of the passengers now traveling to New York by Amtrak; the construction of new airport capacity likely is not an alternative.

Amtrak often provides the sole means of transportation during severe weather and other emergencies, such as during the Eastern Airlines strike in the spring of 1989. When the strike occurred, one-third of Eastern's New York-Washington passengers diverted to Amtrak, with up to 60 percent riding Amtrak during inclement weather days.

7. *Harsh effect on low income and elderly passengers*

Nearly half of Amtrak's riders, three-fourths of its passenger miles, and two-thirds of its revenues come from its non-corridor operations. These are largely long-haul services, whose passengers are disproportionately poor and elderly travelers.

Thirty percent of long-haul passengers have family incomes of under $20,000; 51 percent have family incomes below $30,000.

Thirty-five percent of long-haul passengers are 55 and older; 18 percent of long-haul passengers are 65 and older.

8. *Elimination of public transportation for many communities where Amtrak is the primary or sole mode of public transportation*

Amtrak serves roughly 500 communities—more than the major airlines combined. In many areas nationwide, Amtrak is the passenger service which operates during severe weather.

Some 109 communities served by Amtrak have no air service. Fifteen more Amtrak-served communities lost their essential air service subsidy as of January 1, 1990, and air service to those communities likely will cease. If the Essential Air

Service program were eliminated, as has been proposed, the number of Amtrak-served communities without air service subsidy could rise to a total of 140.

Some 101 Amtrak-served communities have no direct intercity bus service. Seventy-nine of those communities do not even have connecting bus service to transportation hubs.

Thirty-one Amtrak-served communities have neither air nor bus service. In addition, two communities which lost Essential Air Service subsidies on January 1, 1990, have no bus service, which will bring the total to 33 if air service ceases to those communities. This total could rise to 35 if the Essential Air Service program were eliminated altogether.

9. Loss of an important alternative to highway and airport congestion

In many crowded transportation corridors, rail passenger service—both intercity and commuter—offers the only public transportation alternative to the severe highway and airport congestion that presently clogs transportation. Many rail lines have considerable existing capacity for increased rail passenger service. Rail passenger transportation generally is considered superior to other modes of transportation in terms of energy efficiency and its impact on air quality and the environment.

The cost for improvements to rail lines is a small fraction of the cost for constructing new multi-billion dollar airports or highways. In some cases, improved rail facilities can eliminate the need for new airports. For example, over 30 percent of the air traffic out of Boston's extremely congested Logan International Airport is destined for New York City. A new airport in the Boston area could cost as much as $5 billion and raise numerous environmental concerns. Improvements to the Northeast Corridor between New York and Boston to reduce rail trip time to under three hours, including electrification of the New-Haven-Boston line and new equipment, would cost less than $1 billion and enable Amtrak to capture a significant portion of the air market between the two cities. This would free-up critical airport capacity for long-distance air travel.

LOSS OF THE NATION'S INVESTMENT IN AN INCREASINGLY SELF-SUFFICIENT MODE OF TRANSPORTATION

1. Amtrak's reliance on federal operating support has steadily declined during the past decade

Between fiscal year 1981 and fiscal year 1990, Amtrak's need for federal operating support declined 24 percent in current dollars and 47 percent in constant dollars. Total federal support, including operating and capital, has declined 33 percent in current dollars and 65 percent in constant dollars.

Through improved revenues and productivity, Amtrak has succeeded in covering a significantly larger percentage of its total costs with its own revenues. In the last eight years alone, Amtrak's revenue-to-cost ratio has improved by more than 44 percent, from .48 in fiscal year 1981 to .72 in fiscal year 1989. In fiscal year 1990, Amtrak expects to cover 75 percent of its costs, and is committed to covering 100 percent of its operating costs by the year 2000.

Amtrak revenues now cover more than 100 percent of the short-term avoidable (above the rail) costs of operating trains on a system-wide basis (these are the costs of fuel, crews, food, etc.) and in fiscal year 1989 covered 92 percent of the long-term avoidable costs. By contrast, in fiscal year 1981, Amtrak covered just 73 percent of the short-term costs and only 60 percent of the long-term costs of operating its trains.

2. Amtrak has achieved record financial growth

During fiscal year 1989, Amtrak earned a record $1.27 billion in revenue, a 15 percent improvement over last year and more than double the revenue of fiscal year 1981. Revenue is projected to continue its strong performance, reaching $1.5 billion in fiscal year 1991.

Total passenger miles for the Amtrak intercity system were 5.86 billion, the highest in Amtrak's history and up over 23 percent since 1981. Amtrak now generates more passenger miles than all the passenger railroads generated prior to Amtrak's creation in 1971.

Ridership climbed to 38.9 million passengers, which included 21.4 million intercity and 17.5 million contract commuter (MBTA and MARC systems).

3. Federal financial support for Amtrak is consistent with federal subsidies to other forms of transportation

All public transportation in the United States is subsidized, so it is inequitable to single out federal support for Amtrak without acknowledging the significant level of federal support for other public transportation modes. Both air travel and travel by automobile are federally subsidized through use of general revenues in addition to trust fund expenditures.

For example, between 1980 and 1989, over $20 billion in general revenues—exclusive of trust fund expenditures—have been used to fund the FAA's operations and air traffic control programs. In fiscal year 1990, an additional $3 billion in general revenues will be used to fund the air traffic control system.

If airlines were required to pay for the cost of the nation's air traffic control system, just as Amtrak must pay to dispatch and maintain its Northeast Corridor operations, the airline industry would have operated at a multi-billion dollar loss. For example, in fiscal year 1989, the federal taxpayer paid $3 billion in general revenues towards the cost of the air traffic control system; yet, according to the Air Transport Association, the projected net profit for air passenger industry during 1989 is expected to be less than $900 million. The cost to the airlines for operating the air traffic control system thus would have far exceeded the net profits of the industry.

Air travel also is federally-subsidized through the use of tax-free revenue bonds used to fund grants-in-aid for airports. The use of tax-free bonds deprive the federal treasury of income tax revenues. Similarly, 65 percent of airline ticket revenue is for business travel, the cost of which is tax-deductible and results in a significant loss of tax revenues. These indirect subsidies to the air travel industry constitute just as much a use of federal revenues as does a direct appropriation. In addition, the federal government contributes trust fund monies to the construction of new airports and airport improvements. For example, the federal government has committed to pay for 30 percent of the costs for Phase I of the new multi-billion dollar airport outside of Denver.

4. *Amtrak's net cost to the taxpayer actually is far less than the stated-level of funding appropriated to Amtrak*

Amtrak's need for federal operating support is expected to be $495 million in fiscal year 1991. However, the real cost of operating Amtrak's intercity rail passenger system during that year should be far less.

Money paid back to the government.—By law, Amtrak contributes significant funds into the Railroad Retirement and the Railroad Unemployment trust accounts to cover retirement and unemployment benefits to Amtrak beneficiaries. However, because Amtrak is a railroad with stable employment and relatively few retirees, its payments into these trust funds far exceed amounts the federal government pays out to Amtrak beneficiaries. These excess payments, which include $135 million in excess Railroad Retirement taxes and $17 million in excess Railroad Unemployment Insurance taxes, will total some $152 million in fiscal year 1991, or 31 percent of Amtrak's operating subsidy. Because they exceed federal liabilities to Amtrak beneficiaries, they are treated as revenue by the federal government and used elsewhere to pay federal liabilities. Thus, Amtrak essentially will give back $152 million of its appropriation to the federal government. The net cost of this transaction to the taxpayer is zero, and thus Amtrak's net fiscal year 1991 operating needs really will be $152 million less than stated.

Subsidies to commuter railroads.—The Interstate Commerce Commission has determined that Amtrak, as owner of most of the Northeast Corridor, must absorb the lion's share of costs associated with maintaining and operating the rail line for intercity, commuter and freight service. State rail commuter authorities are required to pay only the incremental cost of their operations and not their fully allocated cost. As a result, Amtrak's fiscal year 1991 budget will act as a funnel for a significant federal contribution to support state commuter rail operations on the Northeast Corridor. If all the users of the Northeast Corridor were required to pay their fair share—fully allocated cost—for maintaining and operating the rail line, the amount Amtrak expects to pay as its share of these costs would be reduced by $47 million in fiscal year 1991. Amtrak's budget should not be artificially inflated to reflect a cost that has nothing to do with the operation of Amtrak's intercity rail passenger system. The federal support for commuter operations now provided through Amtrak's budget should more properly be provided by UMTA, either directly to the state commuter authorities or as a grant to Amtrak for this purpose.

Excessive claims costs.—In addition, employee injury claims by law must be resolved under the Federal Employers' Liability Act [FELA], an expensive, fault-based law passed in 1908, rather than under modern state no-fault workers' compensation statutes. Use of state workers' compensation laws rather than FELA would save at least $17 million annually, which now goes primarily to attorneys who profit by representing employees against Amtrak. Congress is considering an Amtrak proposal to test the use of workers' compensation by Amtrak for a three year period.

The real cost for Amtrak service.—Thus, Amtrak's fiscal year 1991 budget will not only fund intercity operations, but also will provide excess payments to be used by the federal government elsewhere, as well as a subsidy for state commuter rail operations on the Northeast Corridor. A portion of the operating subsidy also could be eliminated by resolving employee injury claims under state workers' compensation laws rather than FELA. As shown below, if these amounts were not included in Amtrak's budget, the real cost of operating Amtrak service in fiscal year 1991 would be just $279 million, resulting in a revenue-to-cost ratio of over 87 percent:

Fiscal year 1991 operating grant request	$495,000,000
Excess RRTA and RUIA payments	−152,000,000
Commuter subsidy	−47,000,000
Excess FELA costs	−17,000,000
Real cost of providing Amtrak intercity rail passenger service	279,000,000

CONCLUSION

With adequate capital support, Amtrak can continue to improve national rail passenger service at less cost to the federal government. The key will be finding the capital with which to acquire new passenger cars and locomotives and to replace outmoded, obsolete facilities. Amtrak is ready for the challenge of a new decade and century beyond. It can be a leader in the development of new high-speed rail systems; the operator of numerous state and regional commuter systems; the mode of choice for business and pleasure travel in crowded transportation corridors; and the transportation link between rural and urban America. Amtrak will work hard with the Administration and with the Congress to secure the funding necessary to provide the public with an even more efficient, reliable, and enjoyable transportation service.

[Clerk's Note.—The National Railroad Passenger Corporation 1989 Annual Report is on file with the subcommittee office.]

HIGH-SPEED RAIL SERVICE

Senator **Lautenberg**. Thank you very much, Mr. Claytor.

The notion of high-speed rail service is exciting to me and, I am sure, to many people in the room. I know that this year was kind of a peculiar winter. I had many occasions to call on Amtrak to go between here and Newark. And I did not have to worry about whether we could land or take off or wait for the other 10 aircraft on the tarmac to clear.

If in fact we could get the service to New York City down to 2 hours 25 minutes reliably, I think we would see a lot of people saying, "Listen, by the time I get to the airport and I get back from the airport and I pay the taxi fares, all those things, I would be better off to hop on a train. I know that they are going to get me there on time and in a high degree of comfort, and that I do not have to arrive one-half hour early to protect my seat."

So you have in this Senator a serious railroad supporter; and I cannot understand why it is that we are second, maybe third or fifth best on developing the kind of technology and the kind of service that we must have and that we can support. So you just stir all the notions about high-speed rail service and what we have to do to get there.

KIND WORDS, NO FUNDS FOR AMTRAK

And I am sure that when you hear the statements by Secretary Skinner and Administrator Carmichael and you see the budget documents praise your improvements and commend you for your goal of eliminating the need for Federal operating subsidy, it sounds pretty good. But, having recognized the goal, I guess maybe they feel that that is a good way to distract you from noticing that you ain't getting any money.

I guess you kind of feel like that new movie that is out, like you are being "loved to death" or something. It must be a little frustrating to hear all these kind words and when the bottom line comes up you are left standing in the station.

Does that bother you a little bit?

Mr. CLAYTOR. Yes; but, Mr. Chairman, it is a great movement forward to have kind words and an indication that they understand the importance of what we are trying to do, as distinguished from previous indication that Amtrak is no good, it is a waste of money, and we are going to get rid of them before the fiscal year is out.

Now while kind words do not produce money, they do produce an atmosphere that may produce money, and we are looking forward to working with the Department of Transportation to see if we cannot get this done as we move along.

Senator LAUTENBERG. I guess there is something to being smothered to death with love or just plain old smothered to death. I mean, you still wind up dead. [Laughter.]

IMPACT OF LOSS OF FEDERAL OPERATING SUPPORT

I would like to ask you what the impact would be if we immediately terminated Federal operating support.

Mr. CLAYTOR. Yes, Mr. Chairman.

Senator LAUTENBERG. Is that a blank page you have in front of you? [Laughter.]

Mr. CLAYTOR. No, no; it is not a blank page. We have submitted, included in my prepared statement as enclosure 2, I believe it is, a very detailed analysis of what would happen if Amtrak should not receive its operating funds.

We are very disappointed that, of course, the administration took this position. But what would be the impact?

Well, you must realize that at the present time, while we are shooting at self-sufficiency in another 10 years—and I am confident we can do it—Amtrak lost $550 million in 1989. We lost $250 million on the Northeast corridor alone. We lost $300 million in the noncorridor operation, with a $550 million loss in 1989.

Now, that will be less in 1991, but the relationship between the two will be about the same. We hope to have a total loss of only $495 million instead of $550 million, and we hope to keep it going down every year.

But, right now, if we do not have the money there is nothing that we can do except shut down—lock, stock and barrel, Northeast corridor and the rest. You cannot possibly do anything else.

Under the statute that Congress passed back in 1970, whenever we take a train off, every person who loses his job as a result of that train coming off is entitled to 6 years, if he has had as much as 6 years seniority, 6 years of pay. That figure would be a total of about $2.7 billion over the 6-year period, but would be some almost $800 million the first year.

Now Amtrak does not have that money. Actually, under the arrangements that have been made, the DOT would exercise its security rights and could own all of Amtrak's property. And we would have to file a petition in involuntary bankruptcy right away. It would not be a reorganization; it would be liquidation bankruptcy. It would all go.

Senator LAUTENBERG. Can you eliminate part of it and maintain service in the Northeast corridor?

Mr. CLAYTOR. No; you certainly could not. You see, in the first place, even if we could drop all of the off-corridor things we have, we would still have to have over $200 million of subsidy to keep running the corridor. But we could not even do that because when you drop the off-corridor routes you are going to pick up something around $300 or $400 million of labor protection liability right away. And that liability would take any money we had, because that is a legal liability that is immediately triggered.

So we cannot do anything. We cannot keep anything running if there is zero appropriation. We shut down, and we go into bankruptcy. There is not any way out.

Now what does that mean? That means, of course, that 24,000 employees lose their jobs, that commuter railroads and Conrail would have to absorb the full cost of operating their services. New Jersey Transit would have to absorb some $31 million in additional costs. Maryland would face $20.7 million in cost. And those are low figures, in my opinion; that is calculated automatically. I think it probably would be more than that.

Thirty thousand of Amtrak's noncommuter passengers travel on the Northeast corridor every day. Those 30,000 would then have to go some other way. That would result in some 70 additional flights that would be needed between Washington and New York at critical times. The airports cannot handle it. The airspace cannot even handle it.

When I have made that point before, my critics have said, well, if you look at this, 70 flights could easily be accommodated over 24 hours. Yes; run them between midnight and 6 a.m.

Senator LAUTENBERG. They are not going to land at National; they would have to be circling overhead until 7 a.m. [Laughter.]

Mr. CLAYTOR. That is right. So there is no way. This is a shutdown.

Now the backup for what I have said is in detail in the attachment to my prepared statement, and I think that is a pretty good summary of what would happen.

Senator LAUTENBERG. It is a terrible summary of what would happen. The fact is that we did not even discuss what we have been working so hard with these days, and that is clean air. Put those vehicles on the road and add the congestion that would be created there, and we would have ourselves one doozy of a battle trying to ever meet a clean air standard.

Mr. CLAYTOR. That is right.

HIGH-SPEED TRAIN OPTIONS ON NORTHEAST CORRIDOR

Senator LAUTENBERG. I understand you are looking at a variety of options to improve the timing of trips through the Northeast corridor, north and south; you talked about that. What are the options?

You know, the one thing, Mr. Claytor, I think that we have to get in place here, the record has to reflect and you have to continue to sing the same old song, as boring as it may get to be for you, capital improvements, capital investments are going to make the difference, and you cannot get it for nothing.

There is not any company, there is not any business, there is not any institution that does not recognize that at some point you have to invest in infrastructure if you are going to achieve the objectives that you set out to get.

And it kind of falls on deaf ears around here and we are incredibly shortsighted. I guarantee you if those companies ran their operations the way we do in government, they would be out of business, because they never step up to the plate and make the investment that they have to in the long term. So that capital investment is a critical one.

I want to ask you in that connection, what options are you looking for to improve the time from New York to Boston?

Mr. **Claytor**. New York to Boston. We have been studying this. As I mentioned, Gil Carmichael and Haley Barbour and I went to Europe twice, actually, to study what the Europeans have with their high-speed trains that might be adaptable here. We are satisfied that, to look at New York to Boston first, that we could make New York to Boston in under 3 hours—not much, but under three hours—which I think would really be enough to move a lot of people out of the airplanes.

Senator **Lautenberg**. What is the service now? What is the rail service time now?

Mr. **Claytor**. Well, with the stops, it is about 4 hours and 40 minutes, and we are talking about a nonstop of 3 hours, and close to that for only one or two stops.

You would have to do this by the following. To do this properly, you would have to electrify from New Haven to Boston, so that electric locomotives, which are much faster and have much better acceleration and have no engine change could go right through.

Second, using a European technology that is being extensively used in Sweden now called tilt technology, we can take the train around the existing curves at up to 25 percent faster than they can go now. That is what the limitation on speed is, particularly in the Boston-New York area. There are lots and lots of curves. You can only go around a curve just so fast without throwing passengers out of their seats.

These tilt cars will enable you to go around a great deal faster. The combination of that, the electrification and new signal system, the tilt cars, and a limited amount of change in the right-of-way which would eliminate some congested spots outside of New York and New Haven, could enable us to make that 3 hours.

Now, we have a plan to do that. We have got everything but the money. We also are making arrangements with the manufacturer of these tilt cars to see if by next year, hopefully spring and early summer of next year, we can bring a set over to this country and test them out in New York to Boston.

Senator **Lautenberg**. You did have some of those tilt cars.

Mr. Claytor. We had a few.

Senator Lautenberg. What happened with that?

Mr. Claytor. We want to try these particular Swedish cars because they are best suited for American use. The Spanish cars we tested in 1988 cannot be used on our high-level platforms and cannot be altered to fit the high-level platforms, in addition to which they are very small trains that I do not think would be marketable in this country. These are.

Now we plan to get them over here and test them. Now let us look at New York to Washington. We currently have 2-hour-35-minute service from New York to Washington with one stop. We think we can make New York to Washington in under 2 hours and 15 minutes using a combination of these tilt cars that I am talking about for New York to Boston, plus a higher speed electric locomotive, which they have certainly developed in Europe, that could go up to 150 miles an hour.

Now we can not run 150 miles an hour over many places because there are still some curves here. But up in New Jersey there are long stretches where we can do 150 miles an hour. And if we have the combination of tilt cars and 150-mile-an-hour locomotives I believe we can do New York-Washington in 2 hours and 15 minutes or maybe a little less.

I think that will clean out the shuttle, frankly. [Laughter.]

Senator Lautenberg. The Trump shuttle and the others? I do not want to get in the middle of the Trump dispute.

The Senator from New Mexico had a question he wanted to ask.

CAPITAL NEEDS FUNDING

Senator Domenici. Mr. Chairman, I have to leave, and I wanted to ask one question on this issue. Frankly, I am impressed with the progress Amtrak has made. We are going to keep Amtrak, and it seems kind of ludicrous to me not to modernize. Frankly, things are changing so fast that if there is one thing that is the order of the day, it is change.

I wonder how much equipment $152 million would buy. You see where that number comes from; you have told us there is $152 million that you really should not spend but you cannot get us to change some—and this is my language, not yours—very archaic provisions relating to workman's compensation; we have another system, and nobody else has it except Amtrak.

Mr. Claytor. And the railroads.

Senator Domenici. Right. What if that $152 million were made available to you for a sustained period of time as a capital improvement fund? How much good would it do?

Mr. Claytor. We could take care of, I would say, the capital investments that we need to improve our system generally. It would not be enough to do that plus buy the exotic new, ultra-high-speed equipment I have been talking about from New York to Boston.

I believe that money has to come from the money that we are saving the U.S. Government in not having to build a new airport in Boston, which is going to be multiple billions. It would have to come from not having to build a new interstate highway through

New England, which probably cannot be done but is the only way you can ease the traffic burden unless we get it on the railroad.

That is a special kind of money, the about $1 billion it would take, to do all the kinds of things I have been talking about in New England, and not too much more to do the same thing south of New York.

That $1 billion has got to be allocated as a matter of policy from other expenditures that would not have to be made. That is the only way you get that kind of money. But the $150 million would take care of the capital money that we need basically for new cars and locomotives for the system as it now stands, which we have to have to stay alive.

Senator DOMENICI. Would you do this for the record—I am sure the chairman would not mind and I would like to have it for myself—would you submit a detail for the record how you would use the $152 million that you assume we really ought not be spending but you are compelled to if you could use it for capital equipment? I understand you have no trouble as the chief operating officer in saying that it is not the way to run a railroad today.

Mr. CLAYTOR. I certainly do, sir.

Senator DOMENICI. Would you submit detail on why it is not, and then would you give us some capitalization capability at $152 million a year?

Mr. CLAYTOR. Yes, sir; I would be delighted.

[The information follows:]

Amtrak's assets—its rolling stock, facilities and other property—are depreciating at a rate of over $165 million each year. Nonetheless, since 1981, Amtrak has seen its federally appropriated capital decline from $221 million to just $2 million in 1986 to approximately $30 million during the last years of the decade. For FY 1990, Congress was able to provide Amtrak $83 million in capital. The result is that for much of the past decade, we were using up our assets at a faster rate than we were replacing them, which means that we have been falling further and further behind. In short, we are a capital starved corporation. Our success at improving the amount of costs we are able to cover with our own revenues is the result in large part from the return on capital we received during the late 1970s, and it will take a capital investment similar to what was made at that time for Amtrak to achieve its goal of eliminating our need for federal operating assistance.

At the present time, we have identified over $2.3 billion in capital needs for the next five years, which includes needed equipment and plant modernization. While Amtrak will generate a modest amount of funds for its capital needs, as well as borrow private sector funds, we nonetheless will require substantial federal capital. Capital funding at the rate of $152 million per year would at least come close to covering the amount at which our assets are depreciating. However, it unfortunately would still be insufficient to make up for deferred capital investment. Amtrak requires a total of at least $300 million in federal, self-generated and private sector funding to move ahead with equipment acquisition and plant modernization. While we can borrow a substantial amount of private capital, this means of support incurs an interest charge that increases our operating costs and absorbs a large portion of the incremental revenues generated from the equipment or improvements that we are financing.

Senator DOMENICI. Thank you very much.

Mr. CLAYTOR. We have it all here, and I would be delighted to put it together in that form and submit it.

Senator DOMENICI. Thank you. Thank you, Mr. Chairman.

Senator LAUTENBERG. Thank you very much, Senator Domenici.

ATLANTIC CITY LINE

Before I ask Senator D'Amato for his questions, I want to just discuss for a moment the Atlantic City line, as you know, Mr. Claytor, a favorite interest and subject of mine. We have discussed this in the past.

Amtrak's projections for revenue and ridership on the Atlantic City line were somewhat optimistic for its first year of operation, but I understand now we are seeing considerable improvement. I would like to ask what further progress we can expect, what revenue as a percentage of cost you see the Atlantic City line generating. Do you project that it is going to meet its mandatory threshold of generating 80 percent of its cost at the end of its second full year? Tell me about your marketing efforts.

Mr. **Claytor**. That is Bill Norman's primary responsibility. He has the details more at hand than I do, and I will ask him to answer the question, if I may.

Mr. **Norman**. Mr. Chairman, as you have already indicated, the trend of ridership on the Atlantic City line over the past 4 months has shown encouraging signs of improvement.

That has come as a result of a number of things that have occurred. We established better connections with the Harrisburg line, giving better connectivity there. We extended one of the Washington trains to Richmond. We have an additional round-trip from Washington to Atlantic City on Saturdays which, by the way, in the past 3 months since we added the second train have been completely sold out nearly every time.

As I noted, we also have been extending our trains to Richmond. I just want to tell you why we also have optimism about where we are going. Ridership in January reached 740 daily. In February that number went up to 940. Looking at the bookings that we have for April, if all goes and we stay on this current trend, we will be in the neighborhood of about 1,400 average per day. At that particular rate, we are well on the trend line that we had talked about earlier.

There also are a number of things that we are looking at for the future that we think will cause the momentum to continue. As an example, we are looking at the addition of a Philadelphia airport stop to absorb the market of air travelers arriving in Philadelphia continuing to Atlantic City. We expect to target this for about sometime in June.

And we are in the process now of a major negotiation for executing an interline with an airline to connect service from Philadelphia airport to Atlantic City. We hope to have this targeted for June, and if this takes place this will be the first rail-air interline in over 60 years in this country.

In view of those kinds of innovations and things that have occurred and the current momentum, we have very sanguine expectations, Mr. Chairman, that we are now back on track to where we said we would be.

Senator **Lautenberg**. What kind of money are we talking about in this fiscal year for maintaining and promoting the availability of the Atlantic City line?

Mr. **Norman**. Because of the startup, we are spending in this year approximately $2.2 million for Atlantic City service advertising and marketing. We think that once we get that on, future budgets will be somewhere about $1.5 million. Last year for the startup we targeted $2.7 million, sir.

Senator **Lautenberg**. Have you been able to get the casinos to provide the same kinds of discounts and incentives to Amtrak users as those that were given to patrons who are bused into Atlantic City?

We have also discussed the need for casinos to provide ground transportation from the train station to the casinos themselves. Have you had any movement on the part of the casinos? Have they been more cooperative?

Mr. **Norman**. Yes, sir; through your good offices and those of others, we recently have had important cooperation in working with Atlantic City in terms of trying to improve the service. We were able to establish an agreement with Harrah's, which runs through the end of June. Based upon the very strong service that we have had in the past 4 months, we have had discussions with other properties in Atlantic City and we are quite optimistic that as soon as the Harrah's agreement ends in June we will expand this to a minimum of two or three additional ones, which we think will help a great deal.

Mr. Chairman, we have had a significant increase in the number of groups traveling to Atlantic City, and one of the things that we think has happened is these groups have responded very much to these incentives. So we think they work very, very well. And given the very strong success that Harrah's has had, the other properties are now being extraordinarily cooperative.

Senator **Lautenberg**. Last question, and then I will go to Senator D'Amato. Do you only sell round-trip tickets going to Atlantic City? Do you come back deadheading? I mean, a lot of people cannot buy tickets on the way back.

Senator **D'Amato**. I think the Senator hit upon a very important point.

DOUBLE TRACKING THE WEST SIDE CONNECTION

Graham, I am somewhat concerned, and I know that there is a problem with the State pulling out of or capping the West Side Connection in New York at $85 million instead of the $101 million level, so we are $16 million short.

I would like to establish for the record, though, how important double tracking is as opposed to the methodology on which you now have to proceed because of the State's pullout of the single track. Do we not lose an awful lot of efficiency and is that not going to defeat the very purpose that we have attempted to move this project?

It just seems to me to be so close and not to complete the project in the right manner is a terrible loss. I want to do whatever I can to help get the State to pony up those extra dollars.

Mr. **Claytor**. We would certainly like to do that, too, Senator. But I would like to ask Denny Sullivan, our Chief Operating Officer, to discuss it. I am satisfied that for the present we can provide the service with no diminution in quality with a single track.

The situation is such that the second track can always be added when the money is available.

Senator D'AMATO. You have provided the bedding for two tracks; is that right?

Mr. CLAYTOR. Oh, yes. I would like for Mr. Sullivan to expand on that, please.

Mr. SULLIVAN. Yes, Senator. As you said, the available funds between Amtrak funding and State funding has been capped at $85 million, where the scope of work that was originally anticipated is now $101 million, and would provide for double-track railroad between the single-track tunnel that leads into Penn Station and the Spyyter Dyvil Bridge. That is approximately 10 miles.

With the reduced scope, we are only able to build 3 miles of that double track. The additional 7 miles will be built as single track. But, as Mr. Claytor has just said, we are preparing the track bed, the drainage, the bridges are being provided, all of the other items in the scope of work are being readied for the additional 7 miles of double track.

So when and if Amtrak and the State or other users of the line have available funds, it will be a simple matter of laying the additional 7 miles.

Now, given today's levels of traffic on the line, we feel with the 3 miles of double track and 7 of single track we can run a quality service on the West Side Connection. However, I must add that if levels of traffic start to build on the line, and if any commuter service is contemplated to be run on this line, we are going to get into some severe operational problems trying to operate it on 7 miles of single track.

Senator D'AMATO. It just seems to me that the dollars that we have provided on the West Side trade-in, when we were able to get $180 million advanced, saving them 11 years, would be a source of dollars that the State and city could look to.

You know, we talk about Earth Day. We talk about the environment. Here is an opportunity to do something to move people and to build the commuter line economically, efficiently, and certainly to utilize the dollars that we have provided for West Side, which the environmentalists fought so tenaciously against. It is a tragedy that we are not able to convince some of the people in the State, Commissioner White—and I am going to talk to him again—to look to that as a funding source to help in this manner.

It seems to me that that is a unique opportunity to do something to improve Amtrak and to deal with the environmental problems that occur.

Mr. CLAYTOR. We certainly agree, Senator. As you know, our own capital is very tight, but anything we can do to help we want to.

SAFETY INSPECTIONS OF THE HELLGATE BRIDGE

Senator D'AMATO. I have gotten a number of letters and I know, Graham, you have replied to Senator Moynihan, but in addition the city chairman, Peter Valone, the chairman or the president of the city council, has written to me on a matter that you already are aware of, the Hellgate Bridge.

In your responses you have indicated that this is not a structural problem, although it has not been painted since 1939 and it would take 2 years of your budget as it relates to maintenance, et cetera, for bridges for this painting to be undertaken.

Let me ask you if you would—or if you have, fine—address the issue of safety by seeing to it. Has there been a safety inspection of that bridge so that we can ascertain again that it is not safety that is being imperiled?

Mr. CLAYTOR. Oh, yes, and again I will ask Mr. Sullivan to give you the details on that. Absolutely, Senator.

Mr. SULLIVAN. Senator, we make a bridge inspection, a detailed bridge inspection, of every bridge on our system annually, and the Hellgate Bridge is no exception. The inspection that was done during 1989 indicated no structural problems with the bridge. We have an ongoing inspection, since it is such a massive structure and takes a long time to inspect it. The 1990 inspection is going on now.

We have asked for $1 million in the NECIP appropriation for 1990 to continue to do improvements on the deck of the bridge—handrailings, walkways, and so on—so that is in our request for 1991.

Senator D'AMATO. Would you give me something in writing on that and give me the kind of detail as it relates to the inspection, et cetera, and the reason that although you might like to do this aesthetically you cannot, so that I can pass it on to the president of the city council and let him know that this has been looked into?

Mr. SULLIVAN. Yes, sir.

[The information follows:]

Amtrak conducts a yearly safety inspection of all bridges in its system. The Hellgate Bridge, which is a nearly three mile elevated structure that runs through Queens and over the East River to the Bronx, was totally inspected in 1989 and is undergoing inspection at the present time.

Both the 1989 inspection and the present inspection have revealed no structural deficiencies. Handrail and walkway grating repairs are needed. The repairs are being undertaken and Amtrak has requested additional NECIP funding for FY 1991 to continue these repairs.

The paint on the Hellgate Bridge is admittably in poor condition. The Bridge has not been painted in several decades and there is light rust and corrosion at several locations. It must be emphasized that the rust and corrosion do not present structural concerns at the present time nor are any structural repairs required. Bridges used for vehicular traffic are de-iced with salt and other corrosive chemicals that can quickly destroy the steel supporting the bridge unless protected by paint. In contrast, railroad bridges are not chemically de-iced. Amtrak very much appreciates the aesthetic concerns about the appearance of the Hellgate Bridge; nonetheless, at a time when we are critically short on capital, we have not been able to allocate the enormous amount of funds—now estimated at $43 million—required to re-paint the entire bridge structure. Until Amtrak has access to some additional source of capital funding to address basic concerns about our infrastructure and equipment needs, we are only able to address those capital projects that are critical to our day-to-day operation.

YONKERS COMMUTER STOP

Senator D'AMATO. One last mention. Graham, if you do know—and you may or may not have the information—you responded very generously to the pleadings of the people of the city of Yonkers and to this committee by providing a commuter stop for Amtrak in Yonkers. I think it started in March, March 29 of this year.

Do you have any report as to how that is doing, or is it too early to give an assessment?

Mr. SULLIVAN. Yes, Mr. D'Amato. We are stopping several trains at Yonkers with our new timetable change effective April 1.

Senator D'AMATO. You have opened up that station.

Mr. SULLIVAN. Yes.

Senator D'AMATO. How is that working out?

Mr. SULLIVAN. Well, in my understanding we are into it just a few weeks and ridership is fairly low. But we expect that to be a substantial station and to be able to attract substantial business to the Amtrak system at Yonkers. So we will be pushing that in the coming year.

Mr. CLAYTOR. Senator, whenever you do a new service, whether it is a new stop or a new train, it starts very slowly and it builds up. So I think this is no indication that that is not going to work all right.

Senator D'AMATO. Well, let me thank you again for your stewardship and that of your team. I cannot again think of a better example of people who are dedicated and are accomplishing and moving toward those goals.

If we could, Mr. Chairman, find some methodology providing some kind of leverage, it seems to me, in the capital area, then you could turn to the private market through which to bond some of these acquisitions, and that might give you greater firepower to purchase those cars.

I do not know if you are looking at anything in that area, but it would seem to me in these days of tight budgets that might be something that would be an alternative.

Mr. CLAYTOR. Mr. Hayward, would you like to address that?

Mr. HAYWARD. Each time that we look at the acquisition of new equipment, one of the very important things that we do today is to talk to the manufacturers right on the front end about financing the equipment. We do not always accept what the vendors provide to us, but we at least have something as a hold card for trading off and so far, in several instances, we have done much better because we started out in that kind of a deal with financing on the table.

Senator D'AMATO. Well, Senator Domenici has mentioned to me as an aside that he wants to look at the possibility of developing a program which would give you a dedicated source of revenue, and that might give you the ability to then turn to the longer term acquisitions over bonding where you could increase maybe four or five times the level of capital acquisition that you now have.

Mr. CLAYTOR. I have stated previously that on the purchase of equipment we can probably finance 50 percent. If I get $50 million of money, I can finance the other 50. We have got to watch it, however. The junk bond people thought you could just borrow money forever at any interest rate and keep going.

When we borrow money, the interest charges are charged against our operating costs, and our objective is to reduce our operating losses to zero. So while in many cases we can get a return on the new equipment that will be more than enough to cover the interest costs, we have to be careful not to get so much interest cost that that stops our progress in reducing our operating costs.

So we have got to look at that very carefully. I am one who, with a company like Amtrak, which is still not yet on a break-even basis, I am very conservative in how much I am willing to borrow. But the fact that we can borrow is very important. We have been able to do that only within the last 2 or 3 years when the financial community was convinced that the administration was not going to succeed in putting us out of business.

As I have said before, when the President says we are going to shut you down by the end of the year, that does a lot for your credit rating. [Laughter.]

But we are doing well. We are watching it, however.

Senator D'AMATO. Well, you know, Graham, it seems to me now that you have heard that shutdown call for at least 10 years that I have been here, and you have resisted it and the Congress has resisted it in no small measure due to the efficiencies that you have brought about. When we talk about what takes place, as the chairman has indicated and you responded in that question, what would the alternative be in Amtrak? It would certainly be devastation as it relates to the ability of people to move in an era where we talk about transportation and communications being so necessary.

So I am certain that once again you will defy those at OMB. And I do not think they are really serious any more about this. They come to the door with it and throw it here and say to the chairman and others, "Well, now you guys find out where you are going to raise the money."

And then they have us looking at programs such as the FAA and Coast Guard and whatnot, and they say that if you want to fund the FAA do not forget air safety, do not forget oilspills, do not forget drug interdiction. And so you get into the situation of robbing Peter to pay Paul and then they can just turn around and blame other people for cutting back on equally important areas and programs.

It is unfortunate, and that becomes a game. But this is more serious than that, so I will be here with the chairman. He will take the blame for making those cuts in FAA. [Laughter.]

Mr. CLAYTOR. Senator, might I just comment on that for a second? I am optimistic that down the road we are going to get cooperation from the administration on the necessity for providing capital and interim operating funds.

DOT STUDY OF AMTRAK

The Department of Transportation is undertaking a major study with outside experts, with Amtrak's full cooperation, of how we allocate costs now, how our operations are going, what efficiencies we have obtained, what efficiencies we can obtain, what procedures can be used to help us get closer to the break-even base.

That study, I feel confident—as I say, we are working closely with them on that, a study by an outside, independent person so it has credibility and is not just a sales job by Amtrak—but we are working closely with them and I am confident that it is going to indicate that we can do the job if we have the necessary capital and that that may even convince the OMB. I am hopeful it will. I do not expect this to happen overnight, but I am looking forward to having this done as we go down the road and I hope it will work.

Senator D'AMATO. I look forward to that. Thank you, Mr. Chairman.

Mr. Chairman, Senator Grassley was unable to stay due to other commitments, but has asked that I submit his statement for the record.

Senator LAUTENBERG. Yes, certainly.

[The statement follows:]

STATEMENT OF SENATOR GRASSLEY

I would like to say welcome to Mr. Carmichael of the Federal Railroad Administration and to Mr. Claytor of Amtrak. I appreciate your attendance this morning.

Railroads are an important part of the transportation network in the United States, and specifically in rural America. The rail system in the State of Iowa is essential to the future of my home State.

Not only for the movement of freight, but for the movement of people. Catherine Johnson from Iowa City is in the audience this morning. She is in Washington to attend a national conference of the National Association of Railroad Passengers. Her attendance this morning is an example of the importance of a modern, efficient system of rails to the people of Iowa.

Presently there is a need for almost $100 million in rehabilitation of branchlines in Iowa. The State is ready and willing to make a commitment to meet this need . . . and in fact has actively worked to do so. But there is a legitimate Federal role in the upkeep and maintenance of our rail system.

There are many issues to be addressed in the future concerning railroads . . . leveraged buyouts of railroad companies, labor protection, secondary boycotts, the Staggers Rail Act, the Federal Employers Liability Act, just to name a few.

I am looking forward to working with the officials of the Federal Railroad Administration this year as in years past.

ANNUAL CAPITAL INVESTMENT REQUIREMENT

Senator LAUTENBERG. If you had your choice, Mr. Claytor, of a number that would really take care of the capital investment requirement for Amtrak, what would that number be? Do you have any idea, if you could say to me today, "Look, if I had *x* dollars—$1 billion, $2 billion—I could fix this railroad up and start on the road to no subsidy and good and fast and efficient service?"

Mr. CLAYTOR. Well, for the rest of this decade, if we could get that one penny, which is about $1 billion a year, then I can do the big jobs, not just the jobs of replacing equipment and improving the service generally, but the big jobs of new service, of developing the high-speed corridor from New York to Boston and New York to Washington and perhaps other corridors as well.

That is why we have suggested that this way we could clearly go forward with that kind of program. Now a capital improvement of roughly $150 to $200 million a year will take care of probably replacing the locomotives with more modern ones as they wear out, of getting additional new cars that will enable us to have enough capacity to keep moving.

But it would not even make a dent on these major things, which is why I said when you need to justify that kind of money you justify it because we are going to save four or five times that amount of money in other expenditures in highways and in airways.

Senator LAUTENBERG. So you think to do the full job for the next 10 years it would take $1 billion a year?

Mr. **Claytor.** It depends on whether we want to—it would not take $1 billion a year to do the two corridors we are talking about. But look, there are other corridors that are just like that.

Chicago to Detroit could be a high-speed line if we had the kind of money it takes. The Los Angeles-San Diego corridor is our second busiest and could be vastly improved. So $1 billion a year would not be required to do what I have said just in the Northeast corridor, but there are other corridors that will provide the same kinds of savings for air travel, for highway travel, and everything else. And $1 billion a year would enable you to do that.

Let me say, for example, what is the biggest single expense on high-speed operation, let us say, from Detroit to Chicago? Probably the biggest single item would be grade crossing elimination. You cannot run 100-plus miles an hour across grade crossings even if you have gates and lights. You have got to get rid of them.

Yet when you get rid of them you are saving lives because people get killed on these protected crossings right, left and sideways; they disregard the gates. You have got a line that can then run 90 to 100 miles an hour if you get the necessary equipment. And we are in business. But that is big money.

That is why I want the $1 billion a year, so that we can go beyond just the Northeast corridor.

Senator **Lautenberg.** Suffice it to say it is cheaper than the savings and loan bailout, so we would have a railout, not a bailout. [Laughter.]

Mr. **Claytor.** Senator D'Amato, let me bring this closer to home. Another place where high speed, really high speed, is perfectly available is our line from Albany to Buffalo, but again the grade crossings have got to go. I could run 110, 125 miles an hour over some of that, a good deal of that line, but I do not want to do that if I have got to run across grade crossings.

We will not only kill a lot of people on the highway, but that will wreck a train at that speed. So we just cannot do it. But there is a great opportunity right there in your own State for us to have some real high-speed operation.

DUAL-POWER LOCOMOTIVES

Senator **Lautenberg.** I thank Senator D'Amato for your participation this morning. Mr. Claytor, you and I have both been contacted by the Coalition of Northeastern Governors.

Mr. **Claytor.** Yes, sir.

Senator **Lautenberg.** And they stand solidly behind proposals for improvements on the Northeast corridor. They have expressed an interest in a near-term upgrade that would involve Amtrak purchasing more dual-powered locomotives that could run on both electric and diesel energy.

What are your thoughts on that proposal?

Mr. **Claytor.** Well, Senator, the dual-power locomotive is something we need for lots of purposes. We need it, for example, to provide the most efficient way to use the West Side Connection, because when our trains come down from Albany and go into the tunnel, dual-power locomotives are needed.

We are working very hard to develop dual-power locomotives. That is a very complicated business. I think it will be 4 to 5 years before we have one that is satisfactory, and it would not be the answer for New York to Boston.

A dual-power locomotive means diesel primarily and electric to get into the tunnels. The diesel part is not going to be able to have the speed or acceleration that is needed to make that 3-hour trip. Furthermore, it is 5 years away, 4 to 5 years away. Electrification is really the answer, and that is what we need to do.

We need to do both, but the solution for the New York-Boston run is to electrify that stretch from New Haven to Boston.

Senator LAUTENBERG. So does the idea of dual-powered locomotive strike you as being one that ought to be energetically pushed? The cost has to be enormous. Are there prototypes now?

Mr. CLAYTOR. Let me ask Mr. Sullivan, who is working on this very problem, to answer that.

Mr. SULLIVAN. We are out for bid right now, Senator, to try to get some prototypes of a dual-powered locomotive. This would be primarily a diesel locomotive with third-rail power capability. We have what is called an FL-9 locomotive that runs in Albany service today that is a 40-year-old locomotive that is dual-powered, but we need a replacement for that.

We have worked very closely with the equipment manufacturers and their indication to us is that it is going to take 4 to 5 years to build the prototype, to debug, and to manufacture a reliable dual-powered engine that can meet our needs.

As Mr. Claytor said, we are not sure when we get to the point 4 or 5 years down the road that we are going to have a locomotive that can run 125 or 130 miles an hour to produce 3-hour service between New York and Boston. But we do need that for other purposes.

Now we will continue to pursue the development of the technology with the manufacturers to produce a reliable dual-powered locomotive.

Senator LAUTENBERG. What will it cost when you get it? Has anybody projected?

Mr. SULLIVAN. The cost?

Senator LAUTENBERG. Yes.

Mr. SULLIVAN. I would just speculate that it would be in the $4 to $5 million range per unit. An electric locomotive is in that range today, sir.

Senator LAUTENBERG. So you get an engine with options for the same cost that you have? That does not make sense. If you have just an electric engine that will cost $5 million, and a dual-powered engine would cost $4 or $5 million, why would you bother with the single?

Mr. SULLIVAN. Well, a diesel engine today would cost you about $2.3 million and again the prime mover in a dual-powered engine would be the diesel. The electric portion of it would be used only in small sections to get through the tunnels in and out of New York City. It is not designed to operate long distances as an electric locomotive.

Senator **Lautenberg**. If the Boston-New York section were all electrified, you are saying that you would not need dual-powered locomotives for that, but you would still need it for other places?

Mr. **Sullivan**. That is correct. Let me point out, too, that electrification through to Boston allows us to run electric locomotives from Washington through to Boston, providing much better utilization, we feel, of our equipment.

Senator **Lautenberg**. What would it cost to electrify the remainder of the Boston leg?

Mr. **Sullivan**. Well, we have been working again with some suppliers and manufacturers on that, and we have a number in the range of about $200 million to electrify from New Haven to Boston. The cost for necessary signal improvements for the electrification is included in our estimates for needed infrastructure improvements and will be done whether or not we electrify.

Senator **Lautenberg**. And what kind of a return do you think you might get if you did that? How much would it cost to improve the Boston to New York section, including electrification and the other improvements that you need to make?

Mr. **Claytor**. If we include tilt cars and locomotives, it is pretty close to $1 billion. If you do not include equipment, it is probably about $550 million.

Mr. **Sullivan**. It is around $550 million.

Senator **Lautenberg**. And that is running the kind of equipment that you presently have.

Mr. **Claytor**. Yes; but we cannot make the speeds with the equipment we presently have. We would need the tilt cars.

Senator **Lautenberg**. Because of the nature of the trackage.

Mr. **Claytor**. Because of the nature of the curves. It is not feasible to take an existing railroad like that through highly populated communities and try to straighten those curves out.

Senator **Lautenberg**. And the tilt technology would run the cost up, you say.

Mr. **Claytor**. Well, the tilt cars would be somewhat more expensive than other cars, and probably run about $2 million a unit for a tilt car, depending on how many we got. If we got more of them, it would be less. But that would provide us the ability to do it both north and south of New York, which is of course what I am interested in.

Senator **Lautenberg**. Just once more on that, the dual-powered locomotives, is that a cost that can be justified based on the effort, based on the risk of developing a prototype, et cetera, if you have got electrification on the Boston line? It reduces the possibility of use of the dual-powered locomotives. Is that not correct?

Mr. **Sullivan**. That is correct. We would not need to use them on the Washington-Boston line, but there are other people who are interested—Metro North, for instance, New Jersey Transit, MBTA, and other users of the Northeast corridor and other lines in the area who can piggyback on this technology.

We need units to replace the FL–9's, and that is basically why we got started into prototyping a new dual-powered locomotive.

Mr. **Claytor**. But both Metro North, for some of their lines, New Jersey Transit, and MBTA, clearly need the same dual-powered locomotive, and therefore when we come to buy them we will undoubtedly work out a joint purchase because the cost of a locomotive depends on how many you make very drastically.

And you could get very substantial reduced unit cost if the three or four people together pooled their orders and went together, and that is what we plan to do. We are working together with them on the design, too.

NORTHEAST CORRIDOR IMPROVEMENT PROJECT [NECIP]

Senator **Lautenberg**. You are asking $59 million for NECIP, more than double last year's sum of $24.4 million. What are the priorities for that $59 million?

Mr. **Sullivan**. The priorities for the $59 million are the continued installation of CETC, our centralized electric traffic control system between Philadelphia and New York; upgrades in our electric traction system which we have been working on through the Northeast Corridor Improvement Project right along; bridge replacements and upgrades—and this would be primarily the replacement of fixed solid deck bridges with ballast decks which improve the ride quality and, we feel, the safety of operations in the Northeast corridor; some various communications and signal upgrades; various improvements in tracks and platforms in the Penn Station, New York facility; roadbed improvements, continuation of roadbed improvements, including concrete ties and welded rail and undercutting on the Northeast corridor; and some high-speed interlockings between New Haven and Boston. We would like to put in four high-speed interlockings that are capable of 70-mile-an-hour crossover moves between tracks to enhance the service between New York and Boston. We also want some high-level platforms at Route 128 outside of Boston, which is a suburban station. Those are basically the priorities for that money.

Senator **Lautenberg**. What part of the request would be for New Jersey projects?

Mr. **Sullivan**. The impact in New Jersey: CETC is about $5.1 million. Electric traction upgrades, $15.9 million to upgrade the electric power system, including New Jersey. I do not have the exact number for New Jersey on that, but we will certainly get that and submit that for the record, Senator. For the communications and signal upgrade, $2.3 million, which includes funds to replace deteriorated signal cables between Metuchen and Rahway in New Jersey. And the roadbed improvements, $13.3 million, including funds for concrete ties, welded rail and so on, including areas up to Newark, NJ.

The exact numbers that will be in the New Jersey area we will have to pin down and submit for the record, if we may, sir.

Senator **Lautenberg**. Please do.

[The information follows:]

Of Amtrak's request for $58.8 million for needed NECIP improvements, the following work would be undertaken in New Jersey:

Installation of CETC	$2,000,000
Electric traction system	5,000,000
Communication and signal system	500,000
Track improvements	800,000
Total work in New Jersey	8,300,000

Senator **Lautenberg**. I understand there is only about $150 million left in the authorization for NECIP. Is the remaining authorization adequate to cover the long-term improvement needs, and do you support a reauthorization of NECIP?

Mr. **Claytor**. Not forever by any means, no.

Senator **Lautenberg**. How about for now?

Mr. **Claytor**. Well, what we have tried to do is get on the order of $20 to $50 million a year, and that probably is about an adequate amount because we cannot do everything at once. But when it runs out we are going to need more.

Mr. **Sullivan**. For the projects that we have ongoing in the next several years, we have identified $259 million, which would include the $150 million already authorized, for critical Northeast corridor infrastructure improvements.

Senator **Lautenberg**. So reauthorization may be imminent.

Mr. **Claytor**. Yes, sir.

Senator **Lautenberg**. You just said, I think, that there is about $100 million more needed to do this job than you have authorized.

Mr. **Claytor**. Well, of course the authorization was made a number of years ago and we have had inflation since then too, so that we have lost a good deal of that authorization just through the passage of time.

IMPACT OF IMPROVED STATION FACILITIES ON RIDERSHIP

Senator **Lautenberg**. I want to ask you a question. Does the improved condition of Union Station here, the ambience and so forth, affect Amtrak's ridership? Have any studies been done to see if there is an effect on interest in rail as a result of that? I ask you that question obviously thinking about something else. You go to Penn Station in New York and wish you could wave a magic wand and get a Union Station in Washington.

Mr. **Norman**. Based upon the available information that we have, ridership at Union Station has been significantly better than we had anticipated. As an example, in 1989 we had over 3.3 million intercity passengers come to Union Station, generating revenues of over $160 million.

That was an increase somewhere in the neighborhood of about 25 percent, sir. It is very difficult to ascertain what specific portion of that was due only to Union Station, but the combination of all of them working together has shown a very significant increase.

We do estimate that at least somewhere in the neighborhood of 10 to 15 percent of that came as a consequence of having better ambience, better facilities, and additional people who came to the station that would not come.

Senator **Lautenberg**. The Philadelphia station is under way, I know, and moving along rather slowly. It is incredible the art and the design that went into those places. As they begin to get rid of the grime and substances that have collected there, it is really kind of landmark America and it is great to have it. I hope that we will continue to make those improvements.

AMTRAK SMOKING POLICY

Mr. Claytor, I want to commend Amtrak for its work with Congressman Durbin and me in developing a new smoking policy for Amtrak trains. I thought maybe when we banned smoking in airplanes they would all flock to the trains and we should condition it so that people would not be disturbed by the smokers on rail service. What improvements are going to be made in the long haul to protect nonsmokers' rights from unwanted smoke on Amtrak trains?

Mr. NORMAN. Sir, as you are aware, we have been trying to find the very best balance that we can between accommodating both our smokers and nonsmokers and keeping them separated from each other.

We have just initiated some new changes in April by which on all of our long distance reserved coaches we have eliminated smoking, but we have provided a specific space on these trains for smoking to take place. We are going to continue to monitor this new policy that we put forth to ensure that passengers and employees who desire a smoke-free environment will still have that opportunity.

In that regard, sir, we are currently conducting a new passenger assessment survey to reevaluate and to rank the availability and nonavailability of smoking areas to see what our passengers think about it. And we also have an in-house group that is constantly monitoring it.

So what we have seen in April is simply a recognition of what is and we will continue to keep that as a dynamic process.

Senator LAUTENBERG. Have you been contacted by the tobacco industry regarding your smoking policy?

Mr. NORMAN. Yes, sir, we have, and they have made some suggestions about new electronic filters that would have the ability to withdraw smoke and pollutants from the air at a rate significantly higher than present, and we agreed to work with them because we are always looking for new approaches.

Senator LAUTENBERG. Do they want to pay for it?

Mr. NORMAN. We would expect them to, sir.

Senator LAUTENBERG. How about gas masks for those to just ride in comfort? [Laughter.]

You would expect them to pay for it. That would be interesting to see, especially in front of this chairman, to see Amtrak getting money from the tobacco industry. We could call it the Tobacco Special.

PENNY OF THE GAS TAX PROPOSAL

On the penny of gas tax proposal, Mr. Claytor, I think I heard you say that you could not really use that $1 billion a year. This concerns me—and your reputation and your behavior through your professional years has always been to be straightforward and on the conservative side—but when you make a request of this magnitude and I hear you say well, you would not be able to use it all in the years that you collect it, that kind of throws——

Mr. CLAYTOR. No; Mr. Chairman, you misunderstood me. I did not say that. What I was saying was that that figure would be more than enough to take care of just the Northeast corridor high-speed operation, but that we would hope that we would then develop high-speed corridors elsewhere with the similar savings and that that would take more. It depends on how fast we do that, but we could easily use it all for the next 10 years.

There would be a very great return, for example, from a high-speed corridor, just, for example, from Chicago to Detroit.

Now we must keep in mind that this penny, if granted, does not just put money in Amtrak's pocket. It has to go through the Appropriation Committee anyway so that you have got complete control over it. I can assure you that I would come down here with proposals that would use it all, and that would show a return on investment in savings of other money, like highway, air, and whatnot.

What I did say was that the immediate problem we would like to work on first is the Northeast corridor, and it will take 2 years, probably, of that money to meet that and our ordinary replacement operations, at least. But long before the 2 years is up, if it looks as if we might be able to get that money appropriated, I would have specific plans for additional high-speed corridors, which I say we would have to show would have the kind of return that we would get out of the Northeast corridor.

So there is not any question in my mind about our ability to do this, but we have to satisfy you. Getting the penny does not just make a deposit in Amtrak's account. It has to go through your committee anyway, and we would be prepared to come in each time and show what it is we need it for and why we justify it.

Senator LAUTENBERG. I just wanted to clear the record because, frankly, I share your view. I again think that we have to make these investments, that we will make them in time out of desperation, and by the time we come around to that view, it is going to cost us a lot more than the proposals that we are looking at today, with inflation and just increased costs, property values, et cetera.

AMTRAK'S CONTRIBUTIONS TO RAILROAD RETIREMENT SYSTEM

On the mandated subsidy, Mr. Claytor, for the first time, your budget materials break out the level of your operating expenses that are mandated by law and the level which actually comes right back to the Federal Government. These include, and Senator Domenici mentioned this, your payments to the railroad retirement fund, railroad unemployment fund.

In both these cases, you have argued that Amtrak puts in far more money in these funds than its own employees can hope to take out. What is your view on the idea that we should appropriate these funds directly to FRA and have FRA make these contributions?

Mr. CLAYTOR. Mr. Hayward, this is your area.

Mr. HAYWARD. Yes, sir; we are first off very happy at any device which would remove the stigma of these funds from Amtrak. Today people look at our operation and they consider that we have lost the money which, in fact, is just being taken away from one Federal pocket and put back into the other because we happen to belong to an industry that was in decline.

When Amtrak was formed in 1971, there were over 600,000 railworkers, all who were paying into the railroad retirement system and whose companies were paying in. Since 1971, the number of Amtrak employees has been essentially the same, something on the order of 20,000 people. Early on we were paying for many of them right through the railroads' payrolls, but essentially the rail passenger system was 20,000 people.

The total rail employment since 1971 has been cut roughly in half, so there is something on the order of, say, 300,000 or less today. What that system has done has been to require Amtrak to increasingly pay to support the people that are being laid off by the freight railroads.

Senator LAUTENBERG. If we did appropriate separately, how much would we be funneling through FRA?

Mr. HAYWARD. It would be something on the order of $130 to $135 million. It is a number that would change each year. It would have to be recalculated.

Mr. CLAYTOR. For railroad retirement only, but then there would also be unemployment insurance, which would also fall in that category.

Senator LAUTENBERG. A significant expenditure from which you derive little benefit.

Mr. CLAYTOR. That is right.

Mr. HAYWARD. I think one other point, Senator. The commuter railroads that are being funded by the States and in part by the Federal Government are likewise being unfairly hit by this tax to support freight railroad retirees.

NONPASSENGER REVENUE RETIREES

Senator LAUTENBERG. I want to ask a couple questions about the nonpassenger revenue for Amtrak. There is a whole variety of opportunities. I look at Amtrak's properties and where they are located, and boy, I see some really exciting things. Of course the real estate people today would tell you it is not quite as exciting as it used to be. But the fact is that there are opportunities there. What can you tell us about revenue-raising efforts in the nonfare areas?

Mr. NORMAN. Mr. Chairman, one in particular that I would like to mention—I will mention a number—the first is mail and express. Our mail and express volume has grown from essentially zero to over $37 million in 1989. The vast majority of this increase, about $33 million, came from carriage of mail and similar materials for the U.S. Postal Service.

Over the past 5 years, our mail volume has increased by over 150 percent, from $13.1 million to the $33.1 million in 1989 that I just mentioned. The real cause of this is that we have been able to get additional capacity to carry mail. In 1986, we received 74 new mail-handling cars and our relationship with the post office is going extraordinarily well.

We expanded that, and this year we are receiving delivery, through the good offices of this committee, 70 additional material-handling cars, and with that our business is continuing to grow.

The true potential of this business, in our judgment, is limited only by the capacity and constraints of our trains to carry it. So this is a business that is growing and we think will continue to grow.

Another area that has really been moving for us significantly is what we call our revenue enhancement activities. One of them I would like to describe, and I will ask Mr. D'Angelo to describe another, has to do with our fiber optics contracts. Over the past 8 years, Amtrak has actively sought to lease its Northeast corridor right-of-way for the installation of commercial fiber optics communications systems.

During that time, we have executed a number of agreements and over the life of these agreements we will receive in excess of $58 million just in terms of right-of-way fees. We also are able to lease some of the surplus fiber optic communications capacity that we currently have to other entities, and we have been receiving about $3 million annually from that since 1984.

One aspect of that, Mr. Chairman, is that in addition to these revenues, having these new facilities in there allows us to save the corporation significant moneys, because we were able to replace our own fiber optic system between Washington and New York, as well as some other 50-year-old failing communications systems, at no cost to us. So we also had significant cost savings.

Just this year alone, with this business we have executed over six fiber optics right-of-way agreements that are going to contribute revenues to us of about $8 million over the life of these contracts.

Maybe, Mr. D'Angelo, you might mention a few things in your area.

Senator LAUTENBERG. Are you going to talk about the Philadelphia station or any of those properties?

Mr. D'ANGELO. Yes, Mr. Chairman. We have got a very aggressive real estate development program designed to bring in revenues for the corporation through the use of these assets.

Last year, our real estate revenue was $43 million, and we have plans, based on projects we are working on, to expand that to $100 million per year by the year 2000.

There are three or four major projects we are working on. You mentioned Philadelphia, which is one. There is the station which is under way, as you noted earlier, plus the air rights behind it of some 65 acres. We are aggressively pursuing that.

We are also pursuing the development of Sunnyside Yards in Queens, New York, which is 150 acres, obviously located very well, and we are working on that right now.

And Chicago, where we own some properties, is also a great source of real estate development revenue. They are the three major developments. But we have ongoing at any point in time in the range of 500 projects we are working on—small little projects. We are making a few dollars here and a few dollars there which total up to these annual numbers that we mentioned.

Senator LAUTENBERG. Now Newark Penn Station is owned by New Jersey Transit.

Mr. D'ANGELO. That is correct.

Senator LAUTENBERG. And Penn Station, New York, is——

Mr. D'ANGELO. Owned by us.

Senator **Lautenberg**. Are there any plans for Penn Station in New York?

Mr. **D'Angelo**. Yes, there are.

Senator **Lautenberg**. There seems to be work going on there, but I do not know. Is it of a major nature?

Mr. **D'Angelo**. Yes; we just completed the first phase of a $23 million project, which we just completed a few months ago. We are now embarking on the second phase. We are going out in the month of May with an RFP to get a development partner working with us on the commercial development of the remainder of the station.

Our estimates are we will be making investments, ourselves and this partner we will be working with, of between $30 and $40 million, all of which will be financed and the financing will be paid for with increased revenues developed through the retail space. We will have about 80,000 square feet of retail space in there, some of which will be new and some of which will be rehabilitated to provide the revenue to pay off the debt service on the $30 to $40 million.

Senator **Lautenberg**. Is your view that you are better off developing these properties, having continuous income stream, or are you better off to sell some of these opportunities to help your capital requirements? Has that been part of the thought process?

Mr. **D'Angelo**. Indeed it has. Our basic policy has been that we wanted to develop a long-term, growing, continuing revenue stream so we could have a predictable ability to finance things in the future and, of course, to help with the subsidy issue.

It is possible to sell off some things and get some immediate hit, but that would get in the way of the long-term plan. So that has been our basic policy. However, on any one project you have to look at it from the point of view of the needs of that project and the needs of the corporation, so we have on occasion done things contrary to that when there is a special reason to do so. But that is our basic policy.

Senator **Lautenberg**. We have got always a bunch of things to ask you, but what I am going to do is ask that you respond to them in writing.

Mr. **Claytor**. That will be fine. We will be glad to do that.

Senator **Lautenberg**. Once again, Graham, I would urge you to be relentless in your pursuit of these capital funds because I agree with you that those investments have to be made, and there will never be a good time, there will never be a perfect time to do these things.

But the trend lines are good and I think they present a saleable opportunity that we ought to jump on. We are fighting the clean air fight. We are fighting the congestion fight. Yet all you have to do is read the news clips on anticipation for vehicle traffic just in my area, which is the New Jersey-New York region, and see what is expected there. We will be choking on our fumes, on lost time, and I use the PATH train when I can because I know that I am going to get there on time.

You have got to fight the fight to improve things and make the conditions attractive. When you go into Union Station you feel like you are going ahead on a positive journey. Some parts of Penn Station, New York, one cannot say the same for. It is discouraging. The same thing with Philadelphia, although we are beginning to see a brighter light there.

But those things have to be pursued. And I would urge you in terms of Penn Station, New York, I do not know whether I have ever seen a master plan. Has one been developed for Penn Station, New York?

Mr. CLAYTOR. Yes, sir.

Mr. D'ANGELO. It is being refined now with this process I just mentioned, but we do have one.

Senator LAUTENBERG. I would like to see it when you get it because I think your numbers are conservative in terms of the income opportunities that exist. I used to be a commissioner of the port authority and the World Trade Center made one heck of a difference in the budgets there because it provided the revenue stream that could be used for transit and other things, develop economic opportunity.

Developing economic opportunity around the railroad stations is a very good idea. The mayor of Newark and the partnership in North Jersey are very excited about the possibility of establishing connections between Newark Airport and rail service at Penn Station because that kind of linkage—as you said, the first one in 60 years is being considered—is essential. Get rid of those automobiles.

Mr. CLAYTOR. We are in full agreement with that, and we want to do everything we can to get those connections in—not just there but elsewhere.

SUBMITTED QUESTIONS

Senator LAUTENBERG. Thank you very much, gentlemen. We look forward to working with you, as we have, in the future.

Mr. CLAYTOR. Thank you very much, Mr. Chairman. We appreciate it.

[The following questions were not asked at the hearing, but were submitted to Amtrak for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

Senator Lautenberg: I understand that you are looking at a variety of options to improve the timing of trips through the Northeast Corridor, both north and south of New York. Are there any improvements that could be made short of electrifying the remaining segment between New Haven and Boston?

Answer: Reduction of travel times between New York and Boston will require improvements to the right-of-way, advanced signalling and traffic control, and new locomotives and cars, which would use tilt-technology to improve speeds through curves. The infrastructure improvements break-out into two groups: ones that also benefit commuter agencies, and should be funded through UMTA; and ones that more generally benefit intercity rail passenger service. These costs total $367 million ($ 1989).

A. Projects That Benefit Commuter Railroads

1.	Reconfigure New Haven Interlockings	$ 19 million
2.	Jumpover at Shell Interlocking	25 million
3.	Jumpover at Harold Interlocking	28 million
4.	Center Island Platforms at Stamford	25 million
	Total	$ 97 million

B. Other Projects

1.	Modernize signal system (electrification-compatible)	$ 84 million
2.	Install CETC, reverse signalling, and high-speed cross-overs (New Haven to Old Saybrook; Old Saybrook to Cranston, Rhode Island)	74 million
3.	Install concrete ties	76 million
4.	Install continuous welded rail (CWR)	13 million
5.	Convert open deck bridges to ballasted	19 million
6.	Repair Canton Viaduct	2 million
7.	High-level Platforms at Rt. 128 Station	2 million
	Total	$ 270 million

Of this amount, Amtrak has requested NECIP funding during FY 1991 for the high-level platforms at Rt. 128 Station; for two high-speed interlockings between New

Haven and Boston; and to begin converting the open deck bridges to ballasted bridges. If this funding is provided, the $367 million projection could be reduced by $12.3 million.

New tilt-technology coaches and new locomotives (either electric or dual-power) will cost an additional $450 million if a metroliner-like schedule is to be operated. These infrastructure improvements and new equipment would permit New York-Boston travel times approaching three hours without electrification. However, travel times better than three hours, which we believe is critical to capturing the business travel market, can only be accomplished through electrification, which would cost approximately an additional $200 million. In addition, an electrified railroad from Washington to Boston would permit us to most efficiently use our equipment fleet.

Senator Lautenberg: When are you looking to implement these improvements?

Answer: We understand that the state of Connecticut is moving forward in applying for UMTA funds for some of the commuter-related infrastructure projects. We intend to move ahead with some of the other improvements, such as high-speed interlockings and bridge upgrades, through the existing NECIP program. However, the expensive signalling, CETC and roadbed improvements require additional funding that is not included in the existing NECIP program. Amtrak intends to test the Swedish tilt equipment next year. The acquisition of equipment also is not included as part of the existing NECIP authorization.

Senator Lautenberg: Mr. Claytor, I want to commend the cooperation Amtrak has shown in working with Congressman Durbin and me in developing a new smoking policy for Amtrak trains. I believe the new policy we announced last month goes a long way toward protecting passengers from unwanted cigarette smoke. I believe in the long term, we can go even further to assure that the non-smoker is thoroughly protected on every Amtrak car. Is Amtrak looking into new technologies in the area of ventilation, for example, so that we can implement further improvements in your smoking policy in the future?

Answer: While our cars currently have very efficient exhaust systems -- the Superliners replace the air in each car twelve times every hour -- the air quality on our smoking cars can be enhanced by adding "smoke-eater" device, which are used to reduce the amount of smoke in an enclosed area.

We are experimenting with electronic air filters in the Viewliner prototype and, to the extent that these prove to be useful, will include them in our next Superliner order.

The Tobacco Institute has offered to work with our mechanical engineers and share any additional information that would help reduce the amount of smoke in those cars where smoking is allowed.

Senator Lautenberg: Are the new cars that Amtrak intends to acquire with its federal capital funds fully adequate to implement the policy of protecting the non-smoker from the smoker?

Answer: All new equipment will have the most modern and efficient air ventilation systems available and we believe will at a minimum improve over the current technology.

Senator Lautenberg: With the new smoking policy, under what circumstances will we be unable to keep smokers and non-smokers fully separated?

Answer: The only cases in which smokers and non-smokers are not separated are on single-level lounge cars and in Club Cars, where smoking is restricted to the last two or three rows. We are continuing to monitor our passengers' satisfaction with our smoking policy and will make any additional changes possible, consistent with our passengers' needs and our need to protect our revenue. base.

Senator Lautenberg: I would like to discuss your proposal that one penny of any increase in the federal gasoline tax be de designated permanently for Amtrak. As I understand it, one penny of the gasoline tax would generate roughly $1 billion a year. A billion dollars is roughly 25 percent more than the level of funding you are requesting for 1991 when you include funding for the Northeast Corridor Improvement Project. What do you see as the benefits of setting aside a penny of the gas tax for Amtrak over our current funding mechanism?

Answer: A permanent capital funding source for Amtrak would have three primary advantages. First, it would provide more certainty with regard to the availability of funding for important long-term projects, such as equipment acquisition and right-of-way improvements. We are presently handicapped with respect to longer-term projects due to concern that there may be insufficient federal capital funds in future years to continue the projects. This certainty is critical as Amtrak attempts to use private sector financing for some of its capital needs.

Second, the availability of significant capital for rail passenger service will enable Amtrak and federal and state officials to better plan for the future of this nation's rail passenger system. There are numerous cost-effective and badly-need conventional and high-speed rail projects, as well as some needed route and frequency expansions, that could be undertaken if funding for rail improvement projects were available. The certainty of a funding source will provide important impetus to long-term planning for the these projects as well as facilitate cost-sharing with the states.

Finally, as this Subcommittee knows so well, Amtrak has been seriously hampered by a lack of capital. With assets depreciating at a rate of over $165 million, the past decade saw Amtrak fall far behind our financial ability to address our capital needs. Even with federal gasoline tax funding, this Subcommittee still would determine the amount of Amtrak's federal appropriations. However, the difficult task of finding scarce capital funds for Amtrak should be considerably easier if there is a dedicated fund specifically for that purpose.

Senator Lautenberg: Why do you foresee yourself needing this 25 percent increase over the current level of funding?

Answer: Higher capital funding is required due to our inability to financially address our need for replacing our assets, which are depreciating at a rate of over $165 million per year. Amtrak has nearly a decade of deferred capital investment to complete.
Our need over the next ten years for new cars and locomotives alone exceed $2 billion; plant modernization and high-speed rail improvements to the Northeast Corridor exceed another $2 billion. The remainder could help fund important service and frequency expansions with economically justified and where improvements to the rail infrastructure represent a cheaper alternative to costly highway and airport expansion projects. Additional funding also could be used to help develop new high-speed rail corridors, such as California now plans between San Diego and Los Angeles and along the San Joaquin route. Several states, most notably California, are beginning to raise significant funds for rail-related projects. If federal capital funds were available, Amtrak could participate in these projects on a cost-sharing basis. Over time, the result would be several new rail corridors with the same potential as the existing New York-Washington corridor for relieving air and highway congestion and reducing air pollution. Amtrak will provide the Subcommittee in the near future with a detailed summary of what could be accomplished with federal capital of $1 billion annually.

Senator Lautenberg: Would you intend to use this funding strictly for capital improvements, or also for operating expenses?

Answer: Although it makes some sense to provide these revenues for operations and capital, trust fund revenues traditionally have been used for capital investment only. It is our hope that with the benefits that accrue from capital investment, Amtrak would be able to eliminate its need for federal operating assistance by the year 2000.

Senator Lautenberg: Would you intend to use the revenue derived from a penny of the gas tax to develop new lines to an expanded network around the country, or do you see it as just being adequate to maintain the current level of service?

Answer: Our primary objective is to make capital investments in equipment and facilities that will permit Amtrak to continue to reduce its dependence on federal operating support. We also would focus on those capital investments in the Northeast Corridor that would reduce travel times between Washington and New York and New York and Boston. There is considerable potential for other high speed corridors where we currently operate and there may also be sufficient capital to develop new routes or add additional frequencies where economically justified.

Senator Lautenberg: For the first time, your budget materials break out that level of your operating expenses that are mandated by law, and that level of your federal subsidy which actually comes right back to the federal government. These include your payments into the railroad retirement fund and railroad unemployment fund. In both of these cases, you have argued that Amtrak puts in far more money into these funds than its own employees can hope to take out. What is you view of the idea that we should appropriate these funds directly to the FRA, and have the FRA make these contributions?

Answer: During FY 1991, we expect to pay approximately $152 million more into the Railroad Retirement and Railroad Unemployment Insurance trust accounts than will be paid to Amtrak beneficiaries. This means we will pay back to the federal government roughly $152 million of our operating grant. Directing FRA to pay this excess on our behalf would be an excellent way to ensure that our operating grant most accurately reflects the cost to the federal taxpayer for operation of our national rail passenger system. We believe that this can be accomplished without any changes in existing law.

We would ask the Railroad Retirement Board to yearly estimate how much in benefits will be distributed to Amtrak beneficiaries during the following year. The difference between that amount and the amount Amtrak must pay in taxes under the existing formula would then be appropriated to FRA. Any overage or shortage could be reconciled in the following year's appropriation.

Senator Lautenberg: Would this be preferable to sending these funds to Amtrak so that you can send them right back to the federal government.

Answer: Very much so. We are criticized for requiring an operating subsidy that will be nearly $500 million in FY 1991. Yet, our cost to the federal taxpayer is much less and, given efforts to eliminate Amtrak funding, we believe that the public should understand how relatively small our need for federal operating support to run our national rail passenger system really is.

Senator Lautenberg: If we were to make this distinction in the appropriations bill, what level of funding, in your view, should we separate out to be funneled through the FRA?

Answer: We are estimating excess RRTA payments during FY 1991 of about $135 million. We are estimating an overpayment of $17 million into the RUIA trust account, although $2 million of this excess would be eliminated if an Amtrak authorization bill is enacted this year that places Amtrak on an experience-rated basis for calendar year 1990.

Senator Lautenberg: Under the same heading, you have cited a level of $47 million in subsidy to commuter operations along the Northeast Corridor. In your grant package, you argue that, since the commuter operations are only required to reimburse Amtrak for the incremental costs of their operations, Amtrak, therefore, must absorb the remaining costs of maintaining and operating the Corridor. Does this policy, in your view, perhaps ignore the fact that in the same year you are citing a $47 million subsidy to those commuter operations you are requesting $59 million for the Northeast Corridor Improvement Project? What other railroad do you know of that gets direct, annual federal appropriations for the maintenance of track that it owns?

Answer: As owner of one of the nation's most important intercity, commuter and freight transportation assets, Amtrak yearly expends in excess of $800 million to operate and maintain the Northeast Corridor for all rail users. It is important to note that the Northeast Corridor Improvement Project, now managed by Amtrak, was created in 1976 to upgrade the ability of all rail transportation -- intercity, commuter and freight -- to operate over the Corridor. Our NECIP requests specifically fund capital projects authorized by Congress that are consistent with the goal of improved travel on the Corridor for all rail users. These funds do not go toward offsetting the cost of operating the Corridor. As you know, the total funding level authorized for NECIP will be reached in the next several years.

Our concern regarding the commuter component of Amtrak's operating budget is simply that some $47 million of our stated grant does not go to supporting intercity rail operations, but rather goes to supporting commuter operations on the Corridor. Again, we are criticized because revenues do not cover all our costs, and yet here are $47 million of operating costs that do not support intercity rail passenger operations. We believe that our operating costs should reflect only the real costs to the taxpayer for providing intercity service.

Senator Lautenberg: Since all railroads are required to participate in FELA, and since your FELA payments are made directly to employees and not back to the federal government, why do you include $17 million in FELA costs under your category of "Grant Required To Benefit Obligatory Non-Amtrak Programs"?

Answer: We placed the extra cost imposed under FELA in this section simply to make clear that this is a high cost of doing business that could be eliminated if Congress were to permit Amtrak to test workers' compensation systems to resolve employee injury claims.

Senator Lautenberg: Last year, you told the Committee that you predicted that, by the end of the decade, you would probably be getting enough revenue out of the development of air rights in Philadelphia to meet all of your annual capital needs. How is the development of the Philadelphia Station and other Philadelphia property progressing?

Answer: I had intended to say that it is our hope that the revenue generated by all of our revenue enhancement and real estate projects will ultimately cover most or all of our Amtrak-specific capital needs, such as acquisition of new equipment and plant modernization.

With respect to 30th Street Station in Philadelphia, the $75 million renovation of the station is underway and should be completed in Spring 1991. We continue to work aggressively with Gerald D. Hines Interests in the development of the 65-acre air rights adjacent to the station, although actual construction has not yet begun.

Senator Lautenberg: Do you still predict that it will be adequate to finance all of your capital requirements by the year 2000 and if so, why are you simultaneously advocating the penny gas tax for your future capital needs?

Answer: We intend to look to our revenue enhancement and real estate projects to generate significant capital in future years. Our most immediate concern, however, is with the present -- making up for many years of deferred capital investment -- and funding the capital improvements we need to eliminate our need for federal operating support by the year 2000.

A revenue stream is not expected from the development of the Philadelphia air rights until FY 1996 and it should be about $1.5 million annually by the year 2000. As the development of the air rights continues beyond the year 2000, we expect the revenue stream to increase substantially.

Senator Lautenberg: In our discussion last year about the development of air rights above Amtrak property, you explained that, since Amtrak does not have much equity capital of its own to invest, you are required to rely on the willingness of private sector developers to finance these projects. Do you think this system enables Amtrak to maximize profits from these development efforts, or do you think it would make sense for us to set aside part of your capital appropriation for investments of this kind?

Answer: Good real estate development projects can be financed either through borrowing or through equity contributions by developers or other interested parties. We do not believe that our dependence on outside financing takes away from the quality of the real estate development project from the point of view of the project itself or the amount of revenue that we can make from it.

Senator Lautenberg: What can you report to us on your other real estate development efforts, such as in Chicago?

Answer: We have been successful in negotiating leases for air rights of several parcels. Real estate revenue for FY90 will exceed $6,000,000. Our projections call for revenue in FY2000 to exceed $16,000,000.

Senator Lautenberg: What level of revenue do you anticipate from the development of Penn Station in New York?

Answer: We anticipate that by upgrading the existing retail space in New York Penn Station and by adding new retail space, we will generate approximately $3.5 million per year of new revenue.

Senator Lautenberg: What about the New York Sunnyside Yards? How much property do you have down there, and how much do you believe would be suitable for development?

Answer: Sunnyside Yard represents a unique development opportunity because it is extraordinarily well located ten minutes by public transportation from midtown Manhattan and easily accessible by commuter rail from many suburban locations. Thus, it could serve as a residential center for people working in Manhattan as well as a convenient employment center for suburban residents. This site consists of approximately 150 acres of land and air rights over tracks. Approximataly 27 acres are flat and not covered by tracks or other operating facilities, and could therefore be developed at grade; the remainder of the property may be developed by building decks over the tracks and constructing buildings on these decks. We anticipate that nine million square feet of mixed use development (4,000 moderately priced apartment units averaging 1,000 square feet and five million square feet of office and retail space) could be built on grade and on decks to limited extent. The amount of property suitable for development could be expanded by more extensive decking, and we estimate that a total of 26 to 28 million square feet of mixed use development could be constructed if economically feasible.

Senator Lautenberg: Your budget materials note a positive public response to the redevelopment of Washington Union Station. Do you attribute any increase in ridership to the new changes at Union Station?

Answer: We attribute significant ridership growth to the redevelopment of Washington Union Station. After the renovated station opened, revenue generated by Washington passengers rose 25 percent and this increase has been sustained. While other factors doubtlessly have played a part in this growth, we believe that Washington Union Station is the greatest single factor.

Senator Lautenberg: I see that you have moved your corporate offices into Union Station. What is Amtrak's long-term goal for the station? Do you anticipate that Amtrak some day will own part or all of the station, rather than serving as a tenant to the Department of Transportation?

Answer: We do anticipate taking over effective ownership of the station (perhaps through a 99-year lease) from the Department of Transportation and making the Union Station Redevelopment Corporation a subsidiary of Amtrak. This series of steps would complete the arrangements contemplated when Amtrak and the DOT first began to work on this project. As the public entity that has provided the funding for the renovation of the station and will be its principal user, we believe that we should have this more control over the property in order to ensure that its rail passenger function remains paramount. We are working at the present time with DOT to effect this ownership shift.

Senator Lautenberg: The Senate-passed Clean Air Act includes a provision sponsored by Senator Bingaman that would allow a Governor to use federal-aid highway funds for non-highway transportation projects to help meet federal ozone and carbon monoxide levels. Would this provision encourage states to improve rail passenger facilities or rights-of-way?

Answer: Rail passenger projects should be able to qualify for federal-aid highway funds under the Bingaman provision if the projects help discourage single-driver automobile use. We would urge the conferees to clarify that rail passenger service in fact does qualify under this provision.

Mr. Lautenberg: As you are aware, the Congress has appointed a commission to look at the current railroad retirement system, and recommend changes for that system. Are you optimistic that the Commission will succeed in recommending changes that will put the railroad retirement system on a strong financial footing for future years?

Answer: Since the Commission on Railroad Retirement Reform is currently deliberating, it is difficult to safely predict its recommendations. The Commission is expected to issue a report on its findings this Fall.

However, from the outset, one has sensed a powerful constituency of the freight railroads, rail labor, and the hierarchy of the Railroad Retirement Board in favor of continuing to unfairly tax the publicly supported passenger carrying railroads so that they are, in effect, subsidizing the freight industry.

Senator Lautenberg: I understand that on a number of your lines, you have had to turn away thousands upon thousands of customers. You have told us that you are especially lacking capacity for first class passengers on a number of the long-distance lines. What are you doing to expand capacity in this lucrative area?

Answer: Our lack of first class sleeping accommodations, which generate a high proportional share of passenger revenues, is costing Amtrak dearly in lost revenue. Given our high passenger loads, the only real way to increase capacity is to acquire additional cars. This is one of the primary reasons we believe that moving ahead with a Superliner car order first, rather than ordering new Viewliners, makes the most sense. These cars have the highest capacity and most market appeal out of our entire fleet. We can generate significant increased revenue from adding additional sleeping cars to our existing, sold-out trains. We then must move ahead with replacing our Heritage fleet with new Viewliners, which have significantly more capacity and marketability.

Senator Lautenberg: In general, what efforts are you taking to balance out the supply with the demand?

Answer: We are using two primary tools. The first is to raise ticket fares where possible. This helps to balance supply and demand, although higher fares become counter-productive at some point when the passengers feel that fares are too high relative to alternative modes of transportation. Between Chicago and Los Angeles, for example, the cost of an economy bedroom during the peak season has increased 38 percent over the past two years. Second, through the use of yield management we are better able to match demand with supply as well as maximize revenues from the limited seats that we have.

Amtrak's Labor Negotiations

Senator Lautenberg: I understand that Amtrak is currently in negotiations with its employees regarding a new contract. What is the status of those negotiations currently?

Answer: Renegotiation of labor contracts began in April 1988 when Amtrak served Section 6 notices and 16 labor organizations served notices on Amtrak. Since that time, the parties have met to discuss each other's proposals, but substantive negotiations with the majority of labor organizations have not yet commenced. Under the Railway Labor Act, the parties may seek the assistance of the National Mediation Board to help expedite negotiation of new agreements. Such assistance has been requested with many of Amtrak's unions. The Board has entered talks with some of the unions; there has been little progress to date and discussions continue.

Senator Lautenberg: Do you believe there is the potential for a strike on the part of Amtrak employees within the next year?

Answer: Negotiations are currently under the control of the National Mediation Board. Before a strike could occur, the statutory processes, which include mediation and Board proffer of arbitration must take place. We are confident that, with the assistance of the National Mediation Board, agreements will ultimately be reached without a strike.

Senator Lautenberg: What would be Amtrak's ability to operate in the face of a strike by its employees?
Answer: If a strike did occur, Amtrak would not operate.

Senator Lautenberg: I understand that the Amtrak employees have not seen a pay adjustment in the past three years, since a new contract has not yet been implemented. What level of pay increase for your employees have you budgeted in for fiscal years 1989, 1990, and 1991?
Answer: Inasmuch as we are currently in negotiations over a variety of issues, including wages, it would be inappropriate to comment on such a question. Any response at this time would certainly have the negative effect of establishing a ground floor from which negotiations would proceed. However, all labor organizations have been informed that for Amtrak to be able to provide wage increases, productivity improvements in work rules and cost containment measures in benefits must be obtained. Our current average total compensation cost per employee is almost $46,000. This is a very competitive level of compensation in most areas of the country.

Senator Lautenberg: How long do a [you] hope a new negotiated contract might last?
Answer: Through June 1992.

Senator Lautenberg: Are there topics in your current labor talks that hold the potential for reducing your need for an operating subsidy, or for increasing your need for an operating subsidy in the current and future years?
Answer: Yes on both accounts. With respect to reducing our need for operating subsidy, negotiating modern labor agreements which provide productivity efficiencies and contain benefits cost increases are critical to this goal. While topics or areas for savings vary, the following is a summary of the areas which offer the potential for savings:

Compensation

- o Introduction of regional, market rates of pay.
- o Establishment of part-time positions with reduced rates and benefits, particularly where service requirements for such exist.

Work Rule Changes

- Reduction of "time paid for, not worked" allowances (time where pay is required but no work is performed).
- Elimination of craft/class work restrictions. This would permit existing employees to perform a greater range of work for which they are qualified.
- Reduction/combination of job classifications.
- Reduction in amount of employee movement from job to job. Improvement in rules governing utilization of forces across current seniority district lines.
- Improvement in work week, hours of service and starting time/point rules.

Benefits

- Health and welfare benefit costs are growing at an astounding rate, with double digit percentage increases each year (averaging over 16.5%/yr. increase over the past 4 years). Amtrak seeks the option of alternate insurance coverage, cost containment, and some sharing of costs by employees. The present system involves no cost sharing.

With respect to areas which would increase our need for operating subsidy, the labor organizations have demanded sizable wage increases, benefit improvements and work rules which, if granted, would require severe cost/service reductions and/or subsidy increases. Examples of some of these areas are as follows:

- Wage Increases

  Some of the non-operating unions want to eliminate the 9-12% pay hold-down agreed to in 1982 when Amtrak was first threatened with termination. Pay increases to restore this could cost Amtrak over $84 million per year and downgrade our revenue-to-cost ratio by over 3 percentage points. Additionally, unions are demanding 30% in general wage increases.

- Elimination of entry rates of pay.
- Establishment of a 401 (K) Plan with company contributions.
- Improvements in health benefits, including increased life insurance, elimination of deductibles, and/or establishment of vision care.

In view of the spiraling nature of these costs (currently in excess of $100 million per year), benefit reform/cost containment measures are critical.

Senator Lautenberg: Many members of the Administration have stated that they are eager to work with Congress, Amtrak and other interested public and private parties to help you in your goal of eliminating operating support by the year 2000. Given the fact that they are requesting no funds for Amtrak in 1981, how would you characterize the Administration's support?

Answer: Naturally, we were disappointed that Amtrak funding was proposed to be eliminated for the sixth straight time by the Administration. Nonetheless, we are encouraged by language in the Budget and in the National Transportation Policy recognizing our progress and supporting our goal of eliminating the need for federal operating support by the year 2000. The Administration has committed to working with us towards that goal and we certainly hope for their support of our capital program as well as other initiatives, such as allowing Amtrak to test the workers' compensation program.

Senator Lautenberg: Has there been any real assistance or technical support coming out of the Administration toward your long-term goals, or are these statements more rhetoric than reality?

Answer: To this point, the support has been more rhetorical. However, with our full cooperation, DOT is planning a study of Amtrak's operations and how Amtrak can become operationally self-sufficient by the year 2000. We will work closely and openly with the Administration as it undertakes this study. It is my hope that the study will conclude that Amtrak can eliminate its need for federal operating support and that this will provide the basis for the Administration to support our interim and long-term needs.

Senator Lautenberg: This past February, the General Accounting Office did a report on your revenue enhancement program and your efforts to raise revenue from areas outside of ticket sales. The GAO concluded that, despite your optimistic projections, they did not believe your current revenue enhancement activities will greatly reduce the need for federal subsidies in the future. What are your views on the GAO study and do you have specific criticisms of some of their findings and conclusions?

Answer: In its report on Amtrak's revenue enhancement activities, the GAO concluded the following:

- Revenue enhancement has limited potential for reducing Amtrak's need for federal support.
- Amtrak has not provided Congress with adequate information on its revenue enhancement projects.

- It is unclear whether Amtrak competed unfairly on a track welding contract.

Amtrak disagrees with each of these findings. First, Amtrak has stated that the intent of the revenue enhancement program is to generate funds to help finance its capital requirements and to reduce the federal subsidy for capital. The results of these activities have been significant both in an absolute sense and when compared to the portion of the federal appropriations available for capital during the period reviewed. In fact, of the $366.2 million of new capital funding available to Amtrak, $140.9 million or 38.5 percent came from Amtrak's revenue enhancement program and $225.3 million or 61.5 percent came from federal appropriations. In addition, net income from revenue enhancement activities is projected to be $165.2 million during the 5-year period 1989-93. To put this in better perspective, the $140 million from the revenue enhancement program would have been sufficient to purchase roughly 100 new passenger cars and 20 locomotives. For a company that has been constrained by the lack of equipment for several years, Amtrak certainly views this as significant. Finally, the report fails to identify any of the other benefits provided by the revenue enhancement program, such as the avoidance of the capital cost to install a fiber optic cable needed for our centralized train control system and the annual communications cost savings realized by Amtrak from the fiber optic installation.

Second, since the inception of the revenue enhancement program, Amtrak has kept its congressional oversight committees fully appraised of its revenue enhancement activities and the financial contribution of those activities. No Congressional Committee has ever complained to Amtrak about a lack of data on Amtrak's revenue enhancement program or ever alleged that Amtrak has not appropriately responded to specific requests for information. Amtrak's written testimony before the House and Senate Transportation and Related Agencies Appropriations Subcommittees, the House Energy and Commerce Committee, and the Senate Commerce, Science and Transportation Committee, provides some detail regarding pending revenue enhancement projects and usually is followed-up by more detailed questions at oversight hearings. Additional written data requests from the Committees following hearings provide the specifics of these projects, together with financial data and revenue and cost projections for future projects. These data are similarly provided to the Office of Management and Budget during annual hearings on Amtrak's budget needs. Detailed explanations of particular projects are provided to individual Members of Congress upon request. Amtrak takes great pride in its revenue enhancement program and wants Congress to know of our efforts and success in this area.

Finally, Amtrak has been acutely aware of its responsibilities to compete fairly with its competitors and believes it has the systems and procedures in place to ensure that this policy is followed. The GAO is of the opinion that "it is unclear whether Amtrak competed unfairly on a track welding contract". This opinion is based primarily on the fact that Amtrak used cost data from FY86 to prepare a bid submitted in early FY88. It has always been Amtrak's practice to use a full year of cost data from the rail welding plant to project future costs. At the time of the bid submission, FY87 cost data had not been sufficiently analyzed to be accepted as an accurate base. In addition, 1987 was a extraordinary year for the rail welding plant. The plant experienced an extended shut-down to make capital improvements to enable the welding of 78-foot rail. It was also the first year that the longer rail was welded. It was our opinion that the FY87 data may not have been indicative of future costs. Amtrak is of the opinion that the bid price was based on the best available information and knowledge of our operations at the time. Therefore, it is absolutely clear to Amtrak that it did compete fairly.

Senator Lautenberg: As part of your budget request for capital, you have included $3 million to improve environmental conditions at the Sunnyside Yard and at Philadelphia's 30th Street Station. We are finding throughout the agencies of the D.O.T. a growing number of environmental problems that require considerable amounts of money for clean-up. In many cases, the D.O.T. does not know itself what the full cost implications of these clean-ups will be.

Will the $3 million you have requested be adequate to fund all of the improvements you see as being necessary at Sunnyside Yard and in Philadelphia? Are there other environmental nightmares out there that could cost considerable amounts of money in clean-up funds?

Answer: The $3 million will be used primarily for asbestos and PCB clean-up activities throughout the system, but particularly at Sunnyside Yard and at 30th Street Station.

Amtrak faces potential liability for cleaning up hazardous wastes at a number of locations, primarily Paoli Yard in Pennsylvania and Sunnyside Yard in Queens, New York. These are properties used and polluted by the Penn Central Railroad and its predecessors and transferred to Amtrak by the federal government in 1976. Amtrak has not caused the environmental concerns at these properties. We estimate that Paoli Yard has a potential Superfund liability of $30-50 million for PCB clean-up. The extent of the damage at Sunnyside Yard from diesel fuel and PCB contamination is not yet known, but we expect it to be substantial.

Amtrak has proposed that a law be enacted to make the previous owners of these properties liable for the cost of cleaning up the pollution they caused. Our proposal was not included in the Senate or House Amtrak authorization bill.

Senator Lautenberg: You have been praised for your ability to raise funds in the private sector through borrowing in order to reduce your need for federal operating subsidy. What mechanisms has Amtrak utilized to borrow funds from the private sector?

Answer: Amtrak has financed its equipment in a number of different ways, ranging from direct borrowing to leverage leasing to the use of lease leasebacks.

Senator Lautenberg: What is Amtrak's current level of debt?

Answer: Amtrak has borrowed approximately $158 million from the private sector for equipment.

Senator Lautenberg: What is your annual debt service at the current time, and how much do you expect that to grow in the next few years?

Answer: The debt service averages approximately $16 million a year. The extent to which it will grow will depend on how much we ultimately borrow. The interest or lease payments we incur when borrowing from the private sector increases our operating costs and absorb a significant proportion of the incremental revenues generated from the new equipment or improvements that have been financed.

Senator Lautenberg: What is the maximum level of debt you think Amtrak can carry in its current financial condition?

Answer: Our ability to borrow and the amount that we can borrow are predicated on, among other things, our continued financial improvement as well as the amount of federal capital support we receive. Ultimately, the amount is directly related to our conservative estimate of our ability to service the debt.

Senator Lautenberg: What is the current status of Amtrak's efforts in drug testing of its employees? Are you performing only post-accident testing, or random drug testing?

Answer: Amtrak tests for the presence of drugs through urinalysis in the following situations: pre-employment physical examinations; periodic physical examinations; fitness-for-duty physical examinations; testing for reasonable cause; testing required by federal regulations following certain train accidents; random drug testing mandated by federal regulations; and follow-up testing after an employee's drug use has been detected, but the employee has been allowed to return to work on a conditional status, generally after completion of the rehabilitation program.

Senator Lautenberg: What percentage of Amtrak's work force is currently being tested?

Answer: Amtrak's random testing levels conform to minimum levels prescribed by federal regulations, 49 CFR Part 219. During the first testing year, which began February 1, 1990, the company will conduct a number of random drug tests that is equal to 25 percent of the employee population covered by the Hours of Service Act, which will amount to approximately 1300 tests. During all subsequent years, the number of tests will equal 50 percent of the covered population.

The regulations allow companies to begin testing at low percentages and increase the rate as the year progresses. Now in our third month of testing, Amtrak is testing at an annualized rate of 15 percent.

Senator Lautenberg: What have you found in terms of the level of drug use among Amtrak employees in safety-related positions?

Answer: Based solely on Amtrak's very limited random drug testing experience to date, the positive rate is under two percent.

Senator Lautenberg: What is your policy for employees that test positive for drug use?

Answer: Amtrak's general policy with regard to employees whose drug use has been detected for the first time is to permit them to return to work subject to follow-up testing and several other conditions that vary depending on the circumstances of the case.

Amtrak takes appropriate action to terminate employees who are discovered to have used drugs a second time.

Senator Lautenberg: I am told that Amtrak confiscates a considerable amount of drugs from its passengers on an annual basis. How do you detect and confiscate drugs carried by Amtrak's passengers?

Answer: During FY 1989, Amtrak's Drug Enforcement Unit confiscated a significant amount of illegal drugs from passengers aboard Amtrak trains. This included some 410 kilos of cocaine/crack; 7.6 kilos of heroine; and 2,496 pounds of marijuana. Arrests totaled 597. Over $600,000 in cash also was seized.

Amtrak works closely with federal, state and local law enforcement officials to identify and confiscate illegal substances aboard Amtrak trains or on Amtrak property. Amtrak also will conduct investigations concerning employee involvement in drug distribution.

Senator Lautenberg: How do you handle a passenger that is suspected of carrying drugs?

Answer: In order to create the least disruption of our rail passenger service, passengers suspected of carrying illegal substances generally as stopped for questioning after they have left the train. They are accorded the full protections provided by law under the circumstances.

Senator Lautenberg: Do you believe more can be done in this area?

Answer: I am very confident in the ability of Amtrak's Drug Enforcement Unit to apprehend those who use our trains to carry drugs as well as to protect our passengers. I should note that despite the large amount of drugs Amtrak seizes, it does not receive specific federal drug enforcement funds for these activities.

Senator Lautenberg: What can you report to us on Amtrak's efforts to reduce crossing accidents? Please include for the record your most recent year's statistics and the statistics from the three previous years on crossing accidents involving Amtrak trains.

Answer: Amtrak believes that public education is the most effective method of reducing grade crossing accidents. We actively support and participate with Operation Lifesaver, Inc., the nationwide program developed to reduce the tragedy of rail/highway crossing accidents.

Amtrak prints educational materials that are distributed to school children and communities throughout the system, in addition to sponsoring Operation Lifesaver Trains that further promote grade crossing safety awareness.

The total number of grade crossing accidents involving Amtrak trains for 1989 and the three previous years are as follows:

1989 - 168
1988 - 207
1987 - 151
1986 - 166

Senator Lautenberg: As you know, the House and Senate Commerce Committees are currently in conference on an Amtrak authorization bill. Are there any requirements contained in that bill that will put an additional demand on resources that you have not yet budgeted for?

Answer: No. At most, the bill will direct Amtrak to undertake several route studies. These studies consume staff time, but there generally is little out-of-pocket expense.

Senator Lautenberg: Are there any provisions in the conference that might save you money that you have not yet budgeted for?

Answer: Again, no. The Senate-passed bill includes a provision that would place Amtrak on an experience-rated basis for purposes of calculating our 1989 and 1990 Railroad Unemployment Insurance payments. This would save $16 million over the two years. However, our FY 1991 grant request already assumes this savings.

Senator Lautenberg: What signals have you heard out of the Administration regarding the likelihood that President Bush will sign that bill?

Answer: We have heard mixed signals. The Administration has stated that it opposes a multi-year authorization for Amtrak. However, given the overwhelming vote in favor of the Amtrak authorization bill in the House, as well as strong support in the Senate, Congress could possibly override a veto. No formal veto message has been sent to Congress, although Secretary of Transportation Samuel Skinner has sent a letter to Congress suggesting that he would recommend that the President veto the bill in its current form because of the Administration's strong opposition to an ICC provision included in the bill.

Senator Lautenberg: You are reporting a 15 percent improvement over last year in Amtrak's revenue. That's a very marked improvement for one year. What is the primary revenue source contributing to that 15 percent boost?

Answer: Amtrak's revenue performance in FY 1989 resulted from an unusually favorable combination of both internal and external factors.

Within Amtrak, there were a number of improvements that resulted in increased ridership and revenue. We added popular new services such as the Montrealer, the new Express Metroliner trains, and Atlantic City service; we added new equipment with the Horizon Fleet; we implemented our Yield Management system to achieve better revenues from existing equipment and services; we began some very successful new advertising and promotional campaigns; and we improved the availability of Amtrak tickets through travel agents with automated airline systems.

Outside of Amtrak's environment, some diverse developments worked to our advantage. Economic conditions during FY 1989 were more favorable than expected; higher airline fares provided an improved competitive atmosphere for Amtrak; and increased public concern about airline safety, particularly after the Pan Am tragedy in Scotland, brought more riders to the trains.

Senator Lautenberg: The Americans with Disabilities Act, which I support, will require Amtrak to ensure the accessibility of all Amtrak services and accommodations to individuals with disabilities. This, obviously, will require an additional investment on the part of Amtrak for necessary improvements for stations and cars. What do you currently estimate to be the cost to Amtrak of the ADA bill?

Answer: Amtrak strongly supports making our services as accessible as possible to mobility-impaired and other disabled passengers. We believe we have an excellent record in this area and are the mode of choice for many disabled persons. The Senate-passed ADA and the House Commerce Committee bill would impose costs on Amtrak. Both bills require that all stations be accessible within 20 years. We estimate this will cost

Amtrak $35 million in current dollars and about $53 million in inflated dollars.

The two bills treat passenger-car accessibility somewhat differently. The Senate-passed bill simply requires that all new passenger cars, including diners, lounge cars, sleepers and coaches, be accessible to all disabled persons, including wheelchair passengers. The House Commerce Committee bill would provide some exceptions for wheelchair accessibility in Superliner diners as well as permit Amtrak to add additional accessible seating to already-accessible coaches and food service single-level cars rather than require that every new single-level coach include accessible seating and a wheelchair-accessible bathroom. The cost will mostly be in terms of lost revenue due to the need to include accessible bathrooms, which result in the loss of revenue seats. This lost revenue will be minimized if Amtrak is able to address its current under-capacity problems.

Senator Lautenberg: Will all new cars you intend to purchase be accessible to the maximum degree possible?

Answer: Amtrak is committed to complying with both the spirit and letter of the ADA and will ensure that our new cars are accessible to the maximum degree possible.

Senator Lautenberg: What can you report to us on Amtrak's safety record for the last year?

Answer: Amtrak continues to make significant improvements in safety since the FRA's assessment over two years ago.

o Amtrak's Ratio of FRA reportable injuries was 5.2 per 200,000 manhours in 1989 compared to 6.6 in 1988. This is a 21% improvement on top of the 14% improvement achieved between 1988 and 1987.

o Amtrak was awarded the Silver Medal for second place among the Class "A" railroads for 1989. This moves us up two positions from our fourth place standing in 1988. The rankings were as follows:

Rank/Road	Ratio
1. Norfolk Southern	4.87
2. Amtrak	5.24
3. Southern Pacific	5.37
4. Chicago & Northwestern	6.03

o Amtrak compared favorably in 1989 to other large commuter railroads:

1. Amtrak	5.24
2. New Jersey Transit	9.56
3. Metro North Commuter Railroad	11.56
4. Long Island Railroad	14.45

Senator Lautenberg: Do you still see room for improvements?

Answer: Absolutely! Amtrak's goal continues to be to win the Harriman Award for the safest Class "A" railroad. Our safety programs are focusing on injury prevention activities as a product of the Joint Labor/Management Safety Training Program with the FRA. Amtrak is responding to the needs, suggestions, and hard work of the numerous employee safety committees which have been established throughout our system. We are also directing our management's attention to accident prevention programs both for employees and their families.

Senator Lautenberg: Your formal statement notes your interest in applying Amtrak's expertise to assist in the development of new high-speed rail systems, including Maglev technology. I think it is important that whatever new intercity passenger rail service evolves from Maglev technology, that Amtrak should have a role. What work are you doing currently in the area of Maglev development and research and what do you anticipate doing in the future?

Answer: Amtrak is eager to play an active role in the development and operation of high-speed rail and magnetic levitation transportation in this country. Our role can be to operate the high-speed systems; maintain the equipment and the rights-of-way; market and sell tickets; and provide interconnections between Amtrak and high-speed services. We are working jointly with the Florida High-Speed Rail Corporation to operate the high-speed rail franchise between Miami, Orlando and Tampa. We also are meeting with the group that is attempting to create a Maglev system between Orlando Airport and International Center, as well as discussing other potential systems with the involved parties. These include systems between Pittsburgh Airport and downtown Pittsburgh; Dallas and Houston; Los Angeles and Las Vegas; and various corridors in the midwest.

QUESTIONS SUBMITTED BY SENATOR BYRD

Senator Byrd: Mr. Claytor, last year you informed the Committee that you intended to use roughly $50 million of the amount appropriated for your capital account to purchase new Viewliner cars. You intended to match the federal appropriation with $50 million from the private sector to execute an order for these cars within fiscal year 1990. Is this still your intention?

Answer: Last year, Congress provided Amtrak $50 million in FY 1990 capital funds, to be matched with an equal or greater sum in the private financial market, for use in placing an initial order for new long-distance cars. In evaluating the best use for the equipment capital, we have determined that we could acquire equipment sooner and realize a higher return on investment by purchasing additional Superliner cars --

our high capacity, handicapped accessible, two-level cars -- rather than new Viewliners, which are still undergoing several mechanical and accessibility design changes.

Senator Byrd: Have your plans changed regarding the timing and the level of expenditure you anticipate for the acquisition of the Viewliner cars since last year's hearing?

Answer: We likely will put off ordering Viewliners for at least a year and focus instead on the new Superliners. In order to achieve minimum order efficiencies, we would like to go forward this year with an initial purchase of at least 75 new Superliner long-distance cars to be funded with the federal capital support provided last year, funds borrowed from the private sector and possibly some FY 1991 federal capital.

Senator Byrd: What is your current timetable for bringing the Cardinal to daily service?

Answer: We hope to place an order for new Superliner cars sometime this summer. It will take 18-24 months for the first cars to roll off the production line. We would hope to be able to re-equip the Auto Train within a year after that and to convert the Cardinal to daily service a short time thereafter.

Senator Byrd: Do you still expect that the enhancement of equipment combined with daily service will boost the ridership and revenues of the Cardinal?

Answer: Yes. The performance of the Cardinal is considerably better than required by the statutory performance criteria included in the Rail Passenger Service Act. Nonetheless, it is severely hampered by tri-weekly operation, which limits the number of people able or willing to ride the train. Daily service, while resulting in higher operating costs, should also significantly boost ridership and revenue. It also will enable Amtrak to compete for the movement of mail for the U.S. Postal Service.

Senator Byrd: Last year at this time, you expressed your intention to add some of the Viewliner cars to the Cardinal, thus enabling the Cardinal to run on a daily basis. Is this still you intention to use some of the new Viewliner cars for the Cardinal? If not, what equipment do you intend to devote to the Cardinal in order to bring it to daily service?

Answer: It has been one of our goals to make all of our tri-weekly services, including the Cardinal, daily. In the case of the Cardinal, we can accomplish this in the most expeditious manner by placing an order this year for Superliner cars. We intend to convert our premier Auto Train service to the two-level Superliner cars. This in turn will free up sufficient Amfleet II and Heritage cars to provide the equipment to make the Cardinal daily.

Senator Byrd: How has this change of plans influenced your timetable for bringing the Cardinal to daily service?
Answer: It should speed up daily service. As noted, we are not ready to order Viewliner equipment.

Senator Byrd: How will the Amfleet II cars you intend to use on the Cardinal compare to the Viewliner cars?
Answer: The Amfleet II and Heritage cars taken from the Auto Train will be in excellent condition, albeit older than new Viewliner cars. The Auto Train is our premier service and we make special efforts to ensure that its equipment is representative of the quality of service we are providing our Auto Train passengers.

Senator Byrd: In the past, Mr. Claytor, you have expressed your hope to change all tri-weekly services such as the Cardinal to daily service. Have any other tri-weekly services been made daily as yet? Will the Cardinal be the first?
Answer: In December 1989, Amtrak converted its daytime San Joaquin service in California from Superliner equipment to new low-level Horizon cars, which are suitable for the medium-distance San Joaquin route. With the Superliner equipment that was released, we were able to make the Texas Eagle daily. The only two remaining tri-weekly services are the Cardinal and the Sunset Limited. We believe there is more market potential from making the Cardinal daily prior to the Sunset Limited.
In addition to obvious marketing advantages from daily service, an important motivation is the potential for contracts to move mail for the U.S. Postal Service. We cannot obtain these often lucrative contracts with tri-weekly service.

Senator Byrd: What enabled you to change the Texas Eagle from tri-weekly service to daily service this past year?
Answer: The key was the availability of Superliner cars released from San Joaquin service.

Senator Byrd: Why couldn't the same procedure be used to move the Cardinal to daily service?
Answer: As noted, the key is the availability of equipment. We do not have sufficient long-distance single-level equipment to make the Cardinal daily at the present time. Converting the Auto Train to Superliner equipment will provide the needed equipment in the most expeditious manner.

Senator Byrd: Mr. Claytor, last year at this time you told the Committee that you were in negotiations with the CSX Corporation over the re-routing of the Cardinal. You explained that this re-routing would likely result in increased travel time to points east of West Virginia, but reduce travel times to points west. This re-routing has not occurred. Please explain why?

Answer: CSX informed Amtrak in 1988 that it intended to abandon service on its Mountain Subdivision between Gordonsville and Clifton Forge, Virginia. Amtrak operates the Cardinal over most of this line between Charlottesville and Clifton Forge. This past fall, however, CSX decided to put its plans on hold until its new management evaluated the abandonment plan. In the event CSX goes ahead with the reroute, Amtrak's Cardinal service would go east from Charlottesville to Waynesboro, then south over Norfolk and Western tracks to Buchanon, Virginia, and then northwest on CSX tracks to Clifton Forge. This would increase travel time to West Virginia by about 1 hour 35 minutes. Service between West Virginia and Chicago, however, would be shortened by a similar amount by improvements to the track as well as relocation of Amtrak's Cincinnati station to the Cincinnati Union Terminal. This move is going forward regardless of CSX's final decision on the future of the Mountain Subdivision.

Senator Byrd: Do you expect CSX to re-initiate its request for the Cardinal to be re-routed at a later time?
Answer: We understand that CSX will complete its review of this issue this year.

Senator Byrd: Does CSX continue to adequately maintain the track along the Mountain Subdivision between Gordonsville and Clifton Forge?
Answer: Yes. The track is being adequately maintained.

Senator Byrd: To your knowledge, has CSX changed its plans in regard to running freight service over that track?
Answer: As we understand it, this is the crux of the evaluation being undertaken by CSX. There is very little local freight service over the Mountain Subdivision. However, the line provides an alternate route to the James River line for transportation to the east coast.

Senator Byrd: Mr. Claytor, you reported that the on-time performance for the Blue Ridge service had improved markedly, and that the number of mechanical failures had diminished in recent years. Has the situation continued to improve regarding the performance of the Blue Ridge?
Answer: The Maryland Department of Transportation operates the Blue Ridge as part of its MARC commuter service between Washington and Brunswick, Maryland, and, in the case of the Blue Ridge, to Martinsburg, West Virginia. Although Amtrak has no day-to-day control over the performance of the train, Maryland reports that the Blue Ridge operated on time 93.5 percent between October 1, 1989 and April 18, 1990.

Senator Byrd: Has Amtrak initiated negotiations over the course of the last year with the Maryland

Department of Transportation regarding the continued operation of the Blue Ridge by MDOT?

Answer: Yes. Negotiations recently were completed and an agreement ready for execution is in the possession of the Maryland Department of Transportation.

Senator Byrd: What are the terms regarding Amtrak's agreement with MDOT regarding the operation of the Blue Ridge between Washington and Martinsburg, West Virginia?

Answer: Amtrak will continue to help fund the operation of the train for another three years. Monthly compensation is $10,000 per month, which represents a 56 percent reduction in compensation over the previous contract period.

Senator Byrd: Is it your expectation that Amtrak will take over operation of the MARC trains on the Brunswick and Camden lines when the CSX contract expires at the end of this coming June?

Answer: Amtrak would be very interested in taking over the operation of these trains and have so informed MDOT. However, we have been informed by MDOT that it intends to renew its agreement with CSX.

Senator Byrd: What is the status of Amtrak's negotiations to assume control of the other MARC commuter trains?

Answer: As noted, we do not expect MDOT to seek another operator of the Brunswick and Camden services.

Senator Byrd: Is there any risk that the Blue Ridge service could terminate at the end of June of this year?

Answer: No.

QUESTION SUBMITTED BY SENATOR SASSER

Senator Sasser: Mr. Claytor, last year this Subcommittee expressed interest in restoring Amtrak service running from the midwest down through Tennessee and Georgia and on down to Jacksonville, Florida. Upon the recommendation of our colleague from Georgia, Mr. Fowler, we included a provision in the FY 1990 Transportation Appropriations bill asking Amtrak to assess the potential costs and benefits of restoring this route.

I know many people in Tennessee and Georgia and the other states that might benefits from this service are eager to get the train running. Could you please give the Subcommittee an update on your progress with the feasibility study? I'd also be interested in knowing whether you'll have your recommendations ready for the Appropriations Committee to review in advance of our deliberations on FY 1991 transportation funding.

Answer: Amtrak is pleased that the potential route is attracting so much interest and attention. For

Tennessee, this train could bring significant tourism as well as provide an important alternative mode of transportation to and from the state. The status and nature of Amtrak's study already is discussed in response to a question from Senator Fowler.

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

Senator Mikulski: The FY 90 appropriation included $4 million for repairs and renovation to the Amtrak bridges over the Bush and Gunpowder Rivers in Maryland. Could you provide the committee with a status report on these projects?

Answer: Repairs to the piers of Bush and Gunpowder Bridges are presently underway with a scheduled completion date of July 1991. Bush Bridge consists of 102 piers and Gunpowder Bridge consists of 183 piers. The present NECIP funding of $4 million is entirely for this work.

The NECIP funding request for 1991 provides for the deck repairs of both bridges and will be accomplished in calendar year 1991.

Senator Mikulski: Recently two young men died while trespassing on Amtrak property at Chase, Maryland. Governor Schaefer has alerted you to his concern in this area. I would like to know whether Amtrak is taking further steps to protect the public and itself from accidents such as this by ensuring that trespassers are prevented from entering dangerous areas on rail property.

Answer: Amtrak's police officers frequently patrol the area of Chase, Maryland, along with the Baltimore County Police Department and other local police agencies. All police agencies are working together to reduce the problem of trespassing as much as possible. The efforts being made include stepped-up patrols and posting of additional trespassing signs. In the past, the Amtrak Police had conducted a school safety program in numerous area schools throughout the State of Maryland and have exposed over 200,000 children to the program. This school safety program will be initiated again with a start-up date of May 17, 1990. There will be particular attention to schools in the Chase community.

QUESTION SUBMITTED BY SENATOR FOWLER

Senator Fowler: Mr. Claytor, I've long been a supporter of expanded Amtrak service throughout the Southeastern United States. Last year, I asked the members of the Transportation Subcommittee to address the possibility of restoring passenger rail service from the Midwest through Georgia and on down to Florida in their

FY 1990 deliberations. I was delighted that my colleagues agreed to include a provision in their FY 1990 Appropriations bill calling on Amtrak to assess the potential costs and benefits of restoring this route.

I know many people in Georgia and other states that might benefit from this service are eager to get the train running. Could you please give the Subcommittee an update on your progress with the feasibility study? I'd also be interested in knowing whether you'll have your recommendations ready for the Appropriations Committee to review in advance of our deliberations on FY 1991 transportation funding.

Answer: The study directed by the Committee will consist of a physical analysis of potential routes between Chicago and Florida via Atlanta and an analysis of the costs and potential revenues that such a route would generate. While there are several potential routings, Amtrak likely will study only two and perhaps portions of others in order to determine a representative schedule. This is critical for determining the cost of operating the service. We will estimate revenues based on Amtrak's marketing models. The study should be completed by early Fall and we will make every effort to expedite it.

Amtrak strongly supports operation of a Chicago to Florida route and believes that such a train would fill an important void in our national route system. The only obstacle to implementing the service is financial: we lack any of the five sets of Superliner equipment and locomotives needed to operate the route. In addition, given the federal deficit environment and the need to reduce our need for federal operating assistance, our policy is not to initiate new services that would substantially increase our subsidy requirements. As a result, we believe that the states along the route of the proposed service will have to provide the equipment and absorb the operating losses associated with the service. Our study will identify these equipment needs and anticipated operating losses. Amtrak will work closely with the states involved to identify means in which to fund a new Chicago-Florida service.

QUESTIONS SUBMITTED BY SENATOR NICKLES

Senator Nickles: What progress has been made in the past year towards establishing service in Oklahoma?

Answer: Senate Report 101-121, accompanying the Senate FY1990 Transportation and Related Agencies Appropriations bill, directed Amtrak to report on the impediments to restoring service through Oklahoma. Our report indicates that the cost of operating the train would exceed its revenues: for triweekly service the annual loss would be approximately $2 million; for daily service the annual loss would be approximately $4.3 million.

Amtrak would look to the state to help offset any long-term avoidable operating costs associated with this service, most probably pursuant to the 403(b) program. In addition, Amtrak would look to local communities along the route to provide station facilities.

Senator Nickles: Is equipment now available that could be used for Oklahoma service?

Answer: The equipment required to operate the train, including locomotives, and Superliner coaches, food service cars and sleepers including protect would consist of three locomotives and 14 cars for triweekly service. Daily service would likely require five locomotives and 20 cars. Amtrak does not presently have any of this Superliner equipment.

Acquisition of new Superliner cars for Oklahoma service would cost approximately $45 million for triweekly service and as much as $65 million for daily service.

Senator Nickles: What is the earliest possible date that Oklahoma service could begin?

Answer: It may be several years before Amtrak is in a position to acquire sufficient equipment to permit service expansions. As a result Amtrak does not anticipate having sufficient equipment for the reinstitution of the Lone Star for at least several years, unless the state of Oklahoma were to follow the example set recently by California and purchase the equipment necessary for the service.

Senator Nickles: If Oklahoma was able to fund and therefore participate in the 403B program, is it true that they would be the only state to be required to help subsidize their initial and primary service? If so, why isn't Oklahoma treated like the other states?

Answer: Amtrak is committed to eliminating the need for federal operating support by the year 2000. As a result, we are not able to initiate any new services that would increase Amtrak's federal subsidy needs. In this context, Oklahoma service is treated the same as any other new route.

Because of our goal to reduce our reliance on federal subsidies, Amtrak has been requiring the sponsoring states to share long-term operating losses and capital requirements of any new services. Recent examples of this include the Birmingham-Mobile and Chicago-Milwaukee services sponsored by the state of Alabama and Wisconsin/Illinois respectively. Unless the new route is projected to meet its operating costs, Amtrak cannot implement such a service without state assistance. All requests for new services are treated in this manner, regardless of whether the proposed service constitutes the first or primary service for the state.

Senator Nickles: The main stumbling block to Oklahoma service is the belief of Amtrak that Oklahoma service will require additional federal subsidy at a time when they are trying to rely less on federal funds. However, last year Amtrak requested and Congress approved funds for equipment that when coupled with their total operating funds would have allowed them to establish Oklahoma service and maintain their subsidy ratio. Why did Amtrak not consider the total subsidy figure when denying Oklahoma service?

Answer: Reinstitution of Oklahoma service is projected to increase Amtrak's federal subsidy needs by approximately $2 million per year for triweekly service and $4.3 million per year for daily service. In addition, initial capital investment for equipment purchases would amount to approximately $45 million for a triweekly service and as much as $65 million for a daily service.

Last year's capital funding for acquisition of equipment has been earmarked to help ease our severe capacity problems and to replace some of our aging single-level long-distance equipment used on our present services. Until our pressing need to replace equipment on our current services is addressed, we cannot consider purchasing equipment for new services.

The operating grant provided to Amtrak in FY90 was meant solely to defray the cost of present operations and did not provide funds to expand services. Use of capital funds to offset operating losses is not a wise investment since such funds are meant to make infrastructure improvements and equipment purchases that will reduce Amtrak's need for future operating subsidies.

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

STATEMENT OF GILBERT E. CARMICHAEL, ADMINISTRATOR

ACCOMPANIED BY:

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- **JOSEPH W. WALSH, ASSOCIATE ADMINISTRATOR FOR SAFETY**
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- **ROBERT KRICK, DIRECTOR OF RESEARCH AND DEVELOPMENT**
- **GARY V. CECCUCCI, ACTING DIRECTOR OF BUDGET**

INTRODUCTION OF WITNESS

Senator LAUTENBERG. I now would like to call the new Administrator of FRA, Mr. Gilbert Carmichael.

While everybody is still in the room, I do want to acknowledge the presence of John Riley, the former FRA Administrator, sitting in the back of the room. He said it was a pleasure to be here when he did not have to testify. I must have developed a terrible reputation, but we are glad to see John and remind everybody that he did a very good job.

Mr. Carmichael, you have got big shoes to fill.

Mr. RILEY. Thank you, Mr. Chairman. I tried to get as far from the witness table as I could.

Senator LAUTENBERG. We can still hear that mellifluous voice, John.

We are now going to hear from, if I could have cooperation—do you see what happens when Amtrak comes? They bring their full passenger load. They have a special Amtrak to Washington to hear the eloquent Amtrak officials make their presentation and know that they are working on behalf of the passenger population.

Don't feel bad, Mr. Carmichael. We still have folks in the room very much interested in the function that you perform, and I am pleased to welcome you here. You have served in a number of advisory roles with the Administration on transportation policy and we are pleased to welcome you here for your first appearance before the subcommittee.

As we look at the many activities of the FRA, I am struck by one recurring theme, and that is uncertainty. The Rail Safety Improvement Act of 1988 included a number of critical changes to operating practices on our Nation's railroads. FRA has done a good job at getting out many of the regulations to implement these new policies.

However, we continue to wait for others. Enforcement on some of these regulations, such as the requirement for all trains on the Northeast corridor to be equipped with ATC's, automatic train control safety devices, appear to have slipped.

I am pleased to see the administration proposing a significant level of funding for maglev technology. However, there remains uncertainty as to whether the Government's effort is well coordinated between agencies, whether an adequate level of personnel is to be committed to this initiative, and whether the anticipated research will be adequate to bring the United States into a competitive posture relative to technologies being advanced by the Germans and by the Japanese.

Perhaps the greatest uncertainty we find at the FRA surrounds its enforcement of the Hazardous Materials Transportation Act. In the last 10 years, the volume of hazardous materials transported over rail has increased by over 20 percent. The GAO has recently found numerous problems with FRA's hazmat program, and recommendations by NTSB in this area have languished down at the Agency for 9 years.

While the number of hazmat defects and violations cited by the FRA has increased significantly in recent years, the actual collection of fines from violating railroad operators has decreased. FRA's lack of diligence in addressing its backlog of cases, collecting the maximum allowable fines, and maintaining an adequate inspection force calls into question the Administration's sincerity toward maintaining a safe railroad transportation system.

So, Mr. Carmichael, we welcome you. We have laid out several things that we hope you will be addressing, and we are interested in hearing what you have to say and invite you now to give your testimony. A summary is noble; the chairman does not do it, but everybody else should.

Your entire statement will be printed in the record, but we invite you to give the testimony that you think is essential.

STATEMENT OF MR. CARMICHAEL

Mr. CARMICHAEL. Mr. Chairman, thank you very much. This is my first time here, and I hope we will do a decent job.

I am here with some very good, first-class executives in FRA and I would like to introduce them. On my left is Tom Ferrara, who is Deputy Associate Administrator for Policy, a very skilled, well-educated man for our operation.

Jim McQueen, who is Associate Administrator for the Passenger and Freight Services, and then Joe Walsh, who is the Associate Administrator for Safety, a very experienced and very knowledgeable man, and very interesting to work with. We have had a good first year together.

On my right, Mark Lindsey, the Chief Counsel, a chief counsel that does more than just chief counsel; he has got the legal staff for the assessment that we have to do. And to his right is Gary Ceccucci, who is the Acting Budget Director. These are first-class executives and I have enjoyed my first year with them and I hope I complement them in their work.

BUDGET REQUEST

I would like to present the request for the 1991 budget, $69.579 million, with a request for 709 positions. In order to meet President Bush's and Secretary Skinner's commitment that our Nation's railroads be very safe, very reliable and very efficient, we feel that this is necessary.

We are a small agency, but we have a huge mode that we have to supervise. Mr. Chairman, our Nation is blessed with a huge railroad network and it frustrates me a little bit because it has so much potential. You have been talking about it in the Amtrak meeting. The railroad mode in the United States can carry many millions more people and many millions more tons of freight.

It is not being utilized. We have 175,000 miles of track and right-of-way that is a tremendous resource for this country. I have heard you talk about it and heard Mr. Claytor talk about it, too, that today's congestion, the gridlock, and, most importantly, the air pollution, can be dramatically reduced if we can capitalize on the potential of this railroad mode in this Nation.

I will make very specific budget requests in my formal statement. I will not do that in this quick summary here. I would like to quickly highlight some of the projects and the needs for fiscal year 1991 that we see at the Federal Railroad Administration.

RAIL SAFETY IMPROVEMENT ACT OF 1988

The Rail Safety Improvement Act of 1988 [RSIA], in June 1988, gave very vital tools to FRA in our enforcement of safety. Specifically, the regulations on individual liability and the disqualification of an individual, that is an area where we had no previous authority. It is an extremely valuable new tool for safety enforcement because it makes everyone in the railroad business now directly responsible.

The act helped us raise the maximum penalties for safety violations, and I will touch on that in a minute. We did increase the penalty levels all across the board.

We have issued, since this 1988 act, several final regulations prohibiting tampering, blue signal protection for maintenance-of-way workers, automatic train control for the Northeast corridor and its connecting lines, and expanding reach of the regulation of the older laws, so that they would be coextensive with the new regulations.

That was a big load you gave us for a small agency, a great act and a very important piece of safety legislation. We are continuing to develop the new rules, the event recorders, signal maintenance on highway and railroad crossings, and training standards for dispatchers. Railroad employees will have the ability to file a supplement in human factor accident reports and to put in their observation of the accident.

We are going through a very dramatic and very exciting process right now of licensing locomotive engineers. I personally think it is going to be a major safety device. We are in the middle of reevaluating safety for maintenance-of-way workers on bridges. I am a businessman. I have been involved with and worked well with OSHA as a business person. I want to make sure that FRA does not step on OSHA's toes and that OSHA does not step on our toes in the bridge safety area, so I am reviewing that one personally.

Again, to repeat, it was the heaviest regulation workload in FRA's history. And I repeat this again: As the new Administrator I am impressed with the dedication of the career employees in FRA in implementing these regulations.

But FRA has another responsibility. Not only do we do the regulations, but we are one of the agencies that enforces its regulations through inspection, investigation, and penalty assessment.

You, through this committee and through Congress, gave us the resources in 1990 to meet the new workload of the safety act of 1988, and the fiscal year 1991 budget will help implement the regulations.

SAFETY INSPECTOR WORK FORCE

In my own role, I have got this organization aggressively hiring new safety inspectors. We had 302 inspectors on board at the end of fiscal year 1989. We have 324 inspectors on board today. We have 15 in the process of being hired. And we have got about 24 that we intend to hire before July 1, which will bring our Federal inspectors across the country up to 361. That is the highest number of inspectors that FRA has ever had. I want to very deliberately continue to hire and maintain that level.

In addition to hiring senior, experienced railroad inspectors, my contribution in this first year was to introduce a trainee program to bring in younger, computer literate college graduates, especially women and minorities, to help reduce the age level of our inspectors and to reduce the turnover that occurs when you hire older, experienced inspectors. I hope we can grow some of our own inspectors who will spend years with us.

It is going to be a tough 3-year training program. We are requesting in the 1991 budget 12 trainees.

ENFORCEMENT OF SAFETY REGULATIONS

We are speeding up the enforcement side, in response to your statement that you made just a minute ago. In 1989 we collected $4.3 million in civil penalties, but already in 1990 we have assessed more than $8.3 million. So the trend is not down, sir; it is up, deliberately and aggressively up.

RAILROAD INDUSTRY TRENDS

Safety is our first responsibility. That is the whole purpose for us being in business. The Congress gave us another responsibility, too, and that is to speak for and to interface with the railroad industry. I would like to report to you that I see the railroad industry as very dynamic. Instead of declining, I see it growing. I see it as very creative. That is one of the reasons why when the President asked me if I wanted to serve here and what did I want to do, I said I wanted to be the Federal Railroad Administrator.

HIGH-SPEED RAIL/MAGLEV

Many groups, public and private, right now are pushing high-speed rail across this country. There are several high-speed private rail projects under way in the United States that FRA can help be an innovative factor in bringing about.

The problem or the message seems to be that the American people do not want slow surface transportation any more. They are tired of being in gridlock. They are tired of spending hours trying to get to an airplane or to another city. And there is a strong general support building across this country for high-speed rail, steel-on-steel, and a very strong support by almost the same group for maglev, magnetic levitation.

These systems, high-speed steel, as Graham Claytor said a while ago, high-speed steel corridors without grade crossings are extremely safe, very fuel efficient, and low polluting. And the new technology to solve congestion of highways and airports exists now. Excitingly, it exists in the railroad mode.

FRA, if I have anything to do with it—and I certainly hope I do—can be innovative and stimulating with these new technologies and new systems and as we develop the regulations fór safety in concert with industry and the public and private sector.

We are taking the lead role through our research and development program. The Department of Transportation, FRA, has been the key source of research knowledge of high-speed rail and maglev in the United States since back in the 1960's and we are proud of it. We have got a small research department, but it has a deep, rich history and inventory of knowledge.

The Florida High-Speed Rail Commission has got two projects going on, and they have asked us to play the role of lead support agency to help bring these high-speed projects to fruition. We have been instructed to explore—this committee instructed us to explore the role of maglev and the U.S. industry potential. You gave us a June deadline and we are going to have the report ready for you at the end of June. I think you will be pleased with it. I think it will be a significant report.

We were deeply involved in the creation and invention of maglev, tilt technology, and high-speed steel-on-steel in the 1960's and 1970's and FRA wants to maintain and stay in the lead in the development and creation of these advanced systems.

Our request for research and development funding is designed to do just that. We are already working with the other departments of Government, particularly the Corps of Engineers, the Department of Energy, the EPA, and we are working intermodally with all the sister agencies inside of DOT.

PREPARED STATEMENT

Mr. Chairman, that summarizes where I think we are, and we are ready for questions.

[The statement follows:]

STATEMENT OF GILBERT E. CARMICHAEL

Mr. Chairman and members of the Subcommittee, I appreciate the honor and opportunity to appear before you today to present the fiscal year 1991 budget request for the Federal Railroad Administration (FRA).

FRA's request is for $69,579,000 in budget authority and 709 positions. Our request reflects the commitments of President Bush and Secretary Skinner toward ensuring that the Nation's extensive rail transportation networks provide safe, reliable, and efficient services. In his budget message to the Congress, the President expressed his goal to build a better and more competitive America. A safe, modern and financially healthy railroad system is a vital part of a balanced transportation system for the United States in the 21st Century. With more than 175,000 miles of freight lines in operation, our railroads have an essential role in the regeneration of the U.S. transportation infrastructure.

Before I summarize our specific requests, let me highlight some of our accomplishments and current priorities in order to set a framework for our fiscal year 1991 objectives.

RAIL SAFETY IMPROVEMENT ACT OF 1988

FRA is a small agency with greatly broadened safety responsibilities over a large and important transportation industry. The Rail Safety Improvement Act (RSIA), enacted in June 1988, significantly enhanced FRA's enforcement authority by making individuals liable for penalties or disqualifications and raised the maximum civil penalties for safety violations. FRA has issued several final regulations implementing the RSIA, including rules that: increased maximum civil penalties and scheduled penalties for hundreds of safety regulations; established our enforcement authority over individuals; established procedures for disqualification of individuals unfit for safety-sensitive functions; prohibited tampering with safety devices; extended blue signal protection to maintenance-of-way workers; required automatic train control on the Northeast Corridor and other connecting lines; and expanded the reach of regulations issued under the older safety laws to coincide with our other safety regulations.

We expect to continue the rulemaking process in several other RSIA areas this year. These include: use of event recorders on trains; maintenance of signals at rail/highway grade crossings; training standards for train dispatchers; railroad employee supplements to accident reports; qualification standards for locomotive operators; and bridge safety for maintenance-of-way workers.

This has been the heaviest regulatory workload in FRA's history and very dedicated agency personnel have worked hard to complete these actions.

ENHANCED SAFETY RESOURCES

In addition to being a regulatory agency, FRA is responsible for the enforcement of its safety regulations through its inspection, investigation, and penalty assessment activities. In fiscal year 1990, Congress provided us with the increased field and headquarters resources that were needed to address the initial RSIA workloads. Our fiscal year 1991 budget request will enable us to implement more effectively the new RSIA regulations.

Perhaps our most challenging goal in the safety enforcement area is the hiring of new safety inspectors. Since October, we have instituted management actions to accelerate our hiring practices and offset the high turnover, primarily through retirement, in the inspector workforce. At the end of fiscal year 1989, FRA had 302 safety inspectors on board. Currently, we have 322 inspectors on board and an additional four hires are expected to report in the next two weeks. We have made selection on 15 additional inspector vacancies and expect them to be on board by mid-May. We intend to fill the remaining 20 inspector vacancies so that we reach full authorized strength of 361 inspectors by the end of June. This will be the highest number of safety inspectors FRA has ever had. Our fiscal year 1991 request would provide us with the resources to keep our inspector staffing level at 95 percent of our authorized positions, which conforms to a normal annual attrition rate of five percent.

In addition, FRA is establishing a new safety inspector recruitment and training program. One of the goals of the trainee program is to bring to the workforce talented graduates from colleges, with a focus on recruiting women and minorities, who can be trained to meet the specific needs of FRA and can be expected to remain with FRA over many years. The trainees will undergo a three-year training program of formal classroom instruction, on-the-job assignments, and rotational assignments through the inspector disciplines. We are requesting 12 trainee positions to begin this program in fiscal year 1991.

With our enhanced safety resources, FRA has already been able to quicken the pace of its enforcement activities. During fiscal year 1989, we collected over $4,300,000 in civil penalties. In the first quarter of fiscal year 1990, FRA has assessed more than $8,300,000 in penalties.

MAGNETICALLY LEVITATED TRANSPORTATION SYSTEMS

While safety remains our highest priority, FRA has also expanded its support of efforts to introduce high speed ground transportation into the U.S.—both high speed rail or steel wheel on steel rail systems as well as magnetically levitated (maglev) systems. A number of States along with private sector partners are seriously considering these fuel efficient and environmentally sound technologies as solutions to growing congestion on our highways, at our airports and in our airspace.

Even with these new technologies, however, our initial focus is on safety. We recently completed a study of the safety aspects of high speed rail systems. We are also participating in international forums exploring the safety of high speed rail systems. Results of the research and related activities will be used in determining safety requirements and standards for systems proposed for introduction in the U.S. In response to a request from the State of Florida, we are doing limited safety research of a maglev system proposed for implementation in the Orlando Airport area. We want to ensure the safety of passengers and workers without delaying deployment of this new technology.

At the direction of this Committee, FRA has also begun exploring the role of maglev in our transportation system and the role U.S. industry might play in developing, implementing and operating U.S. maglev systems. Last year Congress directed FRA to study the economic and technical feasibility of constructing commercial maglev systems in the U.S. and actions to promote U.S. leadership in the production of maglev equipment. Mr. Chairman, that report will be submitted this June, as requested.

The Administration recognizes the potential of maglev for meeting U.S. transportation demands in the 21st Century and the industrial opportunities that will be presented by U.S. maglev systems. FRA can have a leading and innovative role in exploring the U.S. prospects in maglev transportation. Therefore, our fiscal year 1991 budget contains funding for research and development to stimulate development of advanced maglev systems in the U.S. and to continue safety research and testing. These activities will be fully coordinated with related activities of the Department of Defense's Army Corps of Engineers, Department of Energy and U.S. industry.

Mr. Chairman, I will now summarize FRA's budget request by each appropriation.

OFFICE OF THE ADMINISTRATOR

The fiscal year 1991 request for the Office of the Administrator appropriation is $15,807,000, an increase of $1,218,000 in budget authority from fiscal year 1990 with the exclusion of the Local Rail Service Assistance and the High Speed Technical Assistance grant programs. We are requesting 192 permanent positions, a net decrease of four permanent positions for our direct appropriation activities. In addition, we are requesting three new reimbursable positions to support our Rail Garrison activities for the U.S. Air Force and assist the Department of Defense in achieving more cost effective use of the U.S. rail capabilities and services.

For "Salaries and Expenses," FRA is requesting $14,063,000 in budget authority, an increase of $899,000 from the fiscal year 1990 level enacted by Congress. The request includes $755,000 in mandatory cost increases, such as adjustments in salaries and benefits, travel and per diem allowances, and other administrative expenses; and $144,000 in program increases for equipment purchases and support services.

For "Contract Support," FRA is requesting $1,000,000 in budget authority, an additional $75,000 over the fiscal year 1990 level. This program increase will enable FRA to initiate technical assistance activities in support of regional and shortline railroads. FRA is planning a cooperative program to develop safety information and technical tools in track and equipment maintenance for use by the managers and workers of these railroads.

For "Alaska Railroad Workers' Compensation," FRA is requesting $744,000 to reimburse the Department of Labor (DOL) for the annual and lump-sum payments made to the former Federal employees of the Alaska Railroad. While Congress did not appropriate the amounts that we requested in fiscal year 1989 and fiscal year 1990, FRA is required by statute to request an appropriation to reimburse the DOL for payments from the Employees' Compensation Fund. DOL has had to absorb about $3 million in payments during the past two years.

RAILROAD SAFETY

FRA's fiscal year 1991 request for the Railroad Safety appropriation is $36,500,000 in budget authority and 498 permanent positions. Our request reflects increases of $5,005,000 in budget authority, 12 positions, and 47 full-time equivalents (FTEs) over the fiscal year 1990 levels. These increases will enable FRA to ensure the effective implementation of our expanded safety responsibilities under the RSIA.

For the "Federal Enforcement" program, FRA is requesting $28,895,000 and 431 positions, including 361 field safety inspector positions, 12 new safety inspector trainee positions, and 58 clerical support positions. The funds requested provide an additional $1,984,000 for mandatory adjustments in administrative expenses, $1,571,000 to fill 28 FTEs associated with previously authorized but unfunded positions, and $612,000 for the 12 new trainee positions. The remaining $266,000 in funding increases is for office automation equipment and support services.

The "Automated Track Inspection Program" request for $1,203,000 will provide for the operation and maintenance of our survey vehicle over 28,000 miles of passenger, hazardous materials, and other priority traffic routes. The additional $43,000 will cover costs for needed equipment overhaul and replacement.

The "Safety Regulation and Program Administration" request is for $6,402,000 and 67 headquarters positions. Our request provides an additional $572,000 for mandatory cost increases that is partially offset by $43,000 in reductions for nonrecurring program activities.

FRA has proposed legislation to authorize user fees to be assessed on the railroad industry to offset the costs of the Federal safety program. The user fees would generate $20,000,000 in fiscal year 1991, assuming implementation for part of the year, and about $38,000,000 in fiscal year 1992. Consistent with other Federal transportation programs, the railroad safety user fees would assure that those who benefit from the safety program will share in its cost of operation.

RAILROAD RESEARCH AND DEVELOPMENT

For the Railroad Research and Development appropriation, FRA is requesting $16,984,000 in budget authority and 16 permanent positions. Our fiscal year 1991 request reflects increases of $7,495,000 and one position over the fiscal year 1990 enactment level. The R&D program increases include $6,150,000 to conduct safety, economic, and other technical assessments of high-speed maglev systems and to establish a strategy for facilitating the private sector development of advanced maglev transportation systems. This initiative will require one additional position in fiscal year 1991. Also, the request will provide $1,500,000 to cover the fiscal year 1991 Federal costs for bringing facilities at the Transportation Test Center (TTC) in Pueblo, Colorado into compliance with Federal and State environmental requirements. At this time, this effort is expected to require some additional funding in fiscal year 1992 and fiscal year 1993, depending on the State's acceptance of our clean-up plan. FRA shares responsibilities with the Association of American Railroads (AAR), which manages the TTC, for cleaning up the waste water lagoon and other sites. The remaining $9,334,000 will support FRA's safety rulemaking activities in such critical areas as human factors and operating practices, highway-rail crossings, hazardous materials transport, equipment and components, and track structure.

AMTRAK

Under Graham Claytor's leadership, revenues have increased from $612 million in fiscal year 1981 to $1.27 billion in fiscal year 1989, and now Amtrak carries more passengers between Washington, D.C. and New York City than any other carrier. Federal subsidy requirements have been reduced from $896 million in fiscal year 1981 to $605 million in fiscal year 1990, a reduction of more than 50 percent when adjusted for inflation. As a result, the ratio of revenues to operating expenses has improved from 48 percent in fiscal year 1981 to 72 percent in fiscal year 1989. Amtrak's management and employees can be proud of these accomplishments that resulted from many cooperative and innovative efforts.

While Amtrak has made significant strides in reducing operating costs and increasing revenues, it currently requires approximately $600 million in annual subsidies or 10 cents per passenger-mile whereas airline and automobile travel require a subsidy of less than 1 cent per passenger-mile.

Amtrak's objective is to eliminate the need for Federal operating subsidies by the year 2000; however, current budget constraints limit the availability of funds for Amtrak's present subsidy needs. Accordingly, no Federal subsidy is proposed for fiscal year 1991.

However, as Secretary Skinner indicated in his appearance before this Committee, the Department is prepared to work with Amtrak and the Congress to come up with a plan for moving Amtrak to self-sufficiency.

Mr. Chairman, this completes my prepared statement. I would be pleased to answer the Subcommittee's questions.

NEED FOR RAIL PASSENGER SERVICE

Senator LAUTENBERG. Thank you very much, Mr. Carmichael. It seems hard for me to understand why, with the emphasis that this country should have in the development of really serious rail passenger service, why we have not made more progress and why it is left to friendly trading nations to produce products that we either have to buy or copy.

You talk about a deep, rich history, to use your language, for lots of years in research. I just would be a cynic for a moment and say how come we have not gotten further than we are? I mean, is it because Americans love the automobile beyond comprehension or beyond willingness to fund other things? Why do you think that is?

Mr. CARMICHAEL. Well, we have been in love with airplanes and highways. I have been deeply involved in all the modes of transportation.

Senator LAUTENBERG. Are you still in the automobile business?

Mr. CARMICHAEL. No; I sold out.

Senator LAUTENBERG. At the right time.

Mr. CARMICHAEL. I learned a lot about the various transportation areas while I was on the National Transportation Policy Study Commission from 1976 to 1979. This country has to be driven sometimes to make its next moves.

I believe after the love affair with the automobile, the congestion and the damage to the highways and the air pollution that all of a sudden we will realize that we neglected this mode. One of the problems with the Federal Government is they do not know how to work with the private railroad industry, this big, huge mode out there.

They know how to work with airways and highways because it is in the public sector. I believe there is awareness from the White House all the way through the administration now that the rail mode has a major role to play. This awareness is coming to the forefront and I am very happy to be here as the Administrator at this time. I am going to do what I can to stimulate that consciousness. I think the time has come.

AMTRAK POLICY IMPACTS

Senator LAUTENBERG. Let me ask you this. If you see me smile, it is because I guess I do not understand the language, and you are very articulate. You bring us faint praise—that the railroad industry is terrific—but your bottom line as regards Amtrak is the same—zero funds for Amtrak. Do you think Graham Claytor has been accurate in explaining the impact of the immediate termination of Amtrak's Federal funding, or do you think he fudged it a little?

Mr. **Carmichael.** I think his figures are correct. I sit on the board for the Secretary and I spent a lot of time looking at the data. His figures are correct.

I think the administration is saying something very significant, too. I believe the administration is saying we do not want to just keep flopping along in this thing, that we need to either get in or get out of the railroad business. That, I believe, is the purpose of the study that Mr. Claytor talked about a minute ago.

We see the need for high-speed surface transportation in this country. One of the first initiatives out of the national transportation policy that Secretary Skinner has just recently issued is a study of high-speed surface transportation. The other study that we want to do is an objective analysis of the facts and figures that Mr. Claytor has talked about.

We want to be able to support those figures with an objective analysis. His capital needs, we hear that. So the whole approach now is, Mr. Claytor, where is your self-sufficiency program? He is in the process of producing it. And we are in the process of trying to support it.

SUBSIDIES TO PASSENGER RAILROADS

Senator **Lautenberg.** Do you know of any passenger railroad in the world that runs without a government subsidy?

Mr. **Carmichael.** I will have to answer it with a piece of an answer. When you get high-speed transportation on the surface or high-speed transportation in the air, when you move 300 people in the air at 500 miles an hour, you make money. I have a feeling that when we get high-speed surface transportation like maglev and high-speed steel trains in the United States moving 300 people at 200 miles an hour or 300 miles an hour, it will make money.

That is the reason why we see so many of these private people involved in pushing a TGV-type train between Houston and Dallas. The cash flow is there. FRA has funded research for those projects and those studies show that if you can develop the real estate with it, those systems can have cash flow and make money.

So the answer to the question, is that high-speed surface transportation moving people safely at good, high speeds, intercity, will probably make money. So I think that is what Mr. Claytor is alluding to. He keeps talking about self-sufficiency in the year 2000, but he keeps saying high-speed Amtrak surface transportation in the year 2000.

AMTRAK SELF-SUFFICIENCY

Senator **Lautenberg.** Just to make sure the record reflects the full view, if you move a couple hundred people at 300 miles an hour through the air, it is because we have paid for airports, and we have paid for controllers and we have paid for research and we have paid for safety and we have subsidized the air passenger to a fare-thee-well. We have not come close to investing in railroading what we invest annually in our aviation system.

What we do is, we charge the passengers a ticket tax and we make all kinds of things available to aviation that we have never come close to with the railroad system. I mean, you said you want to do an objective analysis on Amtrak's review. Could Mr. Claytor be so far off that there is a $640 million error in his calculation? Does objectivity say that we start off by saying you ought to get zero? That is being really objective saying you do not really need any money?

Is that your mark of objectivity?

Mr. CARMICHAEL. Let me make this point, Mr. Chairman. That zero, the way it was said this year, Mr. Claytor referred to it, too, had a very significant piece of rhetoric with it, and that is we want to work with Amtrak to help them become self-sufficient, and we want to be intelligent enough about what it is going to take in order to help them be self-sufficient.

So just to offer some funds at this point, zero or whatever it is, is not as important as saying, OK, you have got a self-sufficiency program; we want to work with you, and if we can support that self-sufficiency program we will come back to Congress to support it. I am deep enough into the study that I think it will show that he can get very close to self-sufficiency in this decade with better equipment.

So I feel quite confident that the market study that we are going to do will be very supportive of how Amtrak moves toward self-sufficiency. The recognition in the report will probably show the difference between the capital investment for airports and air traffic controls versus capital support of Amtrak and its operating costs and expenses.

I think the report will address the difference between those two items, and the type of self-sufficiency we are all talking about.

Senator LAUTENBERG. I do not understand. You know, FAA has requested $8 billion this year, $8.3 billion, for their operations. Now, you were in business, and I, too, was in business and ran a good-sized company. And I would be very careful, watch trend lines, and if I saw someone who had a successful sales record or a successful branch operation I would be inclined to go with them and encourage them, and when they presented a plan to me that said, "Hey, we are going to be making a lot of money down the line, we need some money for investment here and there and new computer equipment," I do not remember ever having said, "Well, OK. That is a great idea but we are going to give you zero, so go ahead and do it."

The thing that is disturbing to me is that we talk about self-sufficiency and when I ask you the question about any passenger railroad that you know of in the world that runs without a government subsidy, you say you are going to give me a piece of an answer, and you did. But I did not get any peace from your answer. In the answer you talked about TGV. I have been over there and looked at it, and they picked out a juicy route, their straight track, no turns. They do not even have the traditional French curves. [Laughter.]

What happened is they are running this equipment straight and narrow and it goes very well. I would guess there are areas in this country with similar conditions—you made reference to the piece in Texas, I think.

Mr. CARMICHAEL. Houston to Dallas.

TRANSPORTATION SUBSIDIES IN EUROPE

Senator **Lautenberg**. If we could do some of those, it would be easy. But here we have the Northeast corridor of the country, with 100 million people, roughly, living in the vicinity and every inch of space accounted for.

We have got to be pretty creative once again. Does the French railroad system operate without subsidy? The TGV lines may, from Lyon to Paris or Paris to LeHavre or someplace.

Mr. **Carmichael**. Let me answer it this way. I do not think they have a subsidy on transportation in Europe. They put such a terrific user fee on their fuel, they build the transportation system they want. The users are paying for it over there. So when people tell me the railroads are subsidized in Europe, I say no, they are not; the users pay a big fee and they build the system.

You can go 110 miles an hour on an autobahn or 160 miles an hour on a train, and the user is paying for it in those cases.

Senator **Lautenberg**. That is a good recommendation. So you are suggesting that the user pay here. That means a substantial gas tax or something like that to get this under way.

Mr. **Carmichael**. No, sir; I am not saying that. I am saying that the American public, if they want the kind of transportation system they have got right now with the user fees they have got right now, then that is it. If they want a more elaborate, faster surface transportation system, then, the way I understand President Bush and Secretary Skinner, it is not going to come out of deficit funds; it is going to have to come out of user fees.

We can have it if we want it. It is out there.

Senator **Lautenberg**. But you also said the Government has to take the leadership role. So as a senior government official, can I say that at today's hearing the FRA Administrator recommended a substantial increase in the gas tax? [Laughter.]

Mr. **Carmichael**. No, sir; you cannot. I am just simply saying that that is only one way. The Europeans, when they talk about the Europeans subsidizing their railroads or their transportation system, they have a very high user fee and they build the system they want.

AMTRAK FUNDING POLICY

Senator **Lautenberg**. How would you run Amtrak without Federal support, beginning October 1? What would you do?

Mr. **Carmichael**. On zero budget? I would shut her down. I agree with Mr. Claytor.

Senator **Lautenberg**. So we are somewhere between zero and the request made by Amtrak?

Mr. **Carmichael**. No, sir; the administration is saying to Mr. Claytor, if you have a self-sufficiency program, we need to know it. We need to analyze it, and if it makes sense we will support it. That is the way I understand the message of the Secretary and of the White House.

RAILROAD RETIREMENT AND UNEMPLOYMENT FUNDS

Senator LAUTENBERG. Amtrak's budget material separates out the level of operating expenses mandated by law, that level of subsidy which actually comes right back to the Federal Government, including the payments into the railroad retirement fund and railroad unemployment fund. In both cases, Amtrak puts in far more money than its own employees can ever expect to take out.

What is your view on the idea that maybe we ought to appropriate these funds directly to FRA and have FRA make these contributions, rather than send the funds to Amtrak and charge them with the cost and then they have to send them right back out?

Mr. CARMICHAEL. My own personal feeling on it is that I would encourage Mr. Claytor, in preparing his budget request, that he show those expenses as individual items. Just as long as all of us realize that those are items that are not in his control, that are going through and coming back, I suppose it does not matter whether it comes through FRA or whether it is identified on Amtrak's budget.

Senator LAUTENBERG. It makes an enormous difference, because you have them out there with a tin cup and then we can have various people from the administration saying, well, they are not gaining on their self-sufficiency goal quickly enough, but if we took out some of those funds the gap would be considerably closed and then you could come in here and make an honest, open-faced request so that you have the funds to take care of those needs and we would not be muddying the waters with the question about how much we are subsidizing Amtrak.

Mr. CARMICHAEL. I see no problem with it, because we are doing it for the Alaska Railroad. I do not know what my Secretary's position would be on it, but I see no difficulty if we did do it that way.

GAO REPORT ON HAZMAT TRANSPORT

Senator LAUTENBERG. GAO submitted recently a very critical report of your Hazardous Materials Inspection Program, and among the findings GAO said that FRA does not use a systematic approach to target high-risk shippers and railroads for inspections.

They do not adequately educate their inspectors as to their authority to cite shippers for safety violations and decide which ones should be selected for inspection, that they concentrate too heavily on inspecting individual tank cars rather than evaluating the overall adequacy of the shippers' safety procedures, that they did not have a sufficient number of inspectors to ensure compliance with its own hazmat regulations.

I would like to get your response to these findings and tell us how you plan to address them and what kind of funding initiatives are contained in your budget to address each one of those problems.

Mr. CARMICHAEL. Mr. Chairman, when I first got here, the GAO report came out, and my instructions—I think I was a consultant at that time—to the staff of FRA were that they ought to accept the criticism and we should modify the strategy.

That was done. We have been doing a tremendous amount of inspection in the yards of the cars, and we have not devoted as much time to inspecting the shipper and their procedures and their actual operations. Since I have become the Administrator we have implemented a modification of our strategy for inspecting hazardous material shippers and carriers. That was a good criticism in the GAO report. We accepted it and we have modified our inspections accordingly. We will do more inspection and more analysis of the shippers at the origin than we have been doing.

FUNDING FOR HAZMAT ACTIVITIES

Senator LAUTENBERG. What about the budget request to deal with these? Did you ask for any money to do this job, to do more of the inspection of the shippers, et cetera?

Mr. CARMICHAEL. Let me ask Gary Ceccucci for a specific answer.

Mr. CECCUCCI. Our budget request does include funding to continue the increase in the staffing that was authorized in 1990. We will have 44 hazardous materials inspectors, an increase of three this year.

We also have funding in there to provide training to our own inspectors, new inspectors as well as other State inspectors, in hazardous materials regulations.

HAZARDOUS MATERIAL PROGRAM

Senator LAUTENBERG. What are you asking for in relation to the hazmat program by way of specific budget?

Mr. CECCUCCI. We would have to break that out specifically among other activities. We could submit that for the record, Senator.

Senator LAUTENBERG. It is in Federal enforcement in the field?

Mr. CECCUCCI. Yes, sir.

Senator LAUTENBERG. So that $4.4 million increase reflects some of the expenditures that will be necessary as a result. If you could be specific with that, I would appreciate it.

[The information follows:]

Under the Railroad Safety appropriation, FRA is requesting $28,895,000 in our Federal Enforcement program for the salaries, benefits, travel, and other expenses of our field safety inspection activities. Of the 431 field positions, we will have 16 Regional Directors and deputies, 340 safety inspectors, 12 trainees, 5 training specialists, and 58 clerical and support specialists. Since 44 of our 340 safety inspectors are hazardous materials inspectors, about 12.9 percent of the Federal Enforcement request, or $3,739,000, can be attributed to the inspection and enforcement activities supporting hazardous materials regulations.

Of the $6,402,000 requested for Safety Regulation and Program Administration, an estimated 14.6 percent ($935,000) can be allocated to the management of hazardous materials policy and programs.

In addition, FRA's FY 1991 budget request includes $978,000 in the Railroad Research and Development appropriation for projects that address specific concerns in the transport of hazardous materials. We are requesting an additional $100,000 above the FY 1990 funding level in this area. About 10.5 percent of the funding for our recurring R&D programs is allocated to hazardous materials research.

Other portions of our budget request will also support hazardous materials safety activities, but cannot readily be allocated to this function, such as ATIP vehicle operations and general administrative and legal personnel expenses.

ASSESSMENT OF VIOLATIONS

Senator LAUTENBERG. We have, according to CRS, typically a 2-year lag between the time when a serious hazardous materials violation is discovered by one of your inspectors and a penalty settlement finally reached with the violator. Why does it take so long? Do you want to ask your counsel?

Mr. CARMICHAEL. I would like my counsel to respond, but let me first just kind of give you my quick view. There are three types of individuals that we deal with in enforcement and assessment violations. That is the shipper, the carrier, and the individual.

The carriers, each one of these groups, respond differently to a fine or to a violation. To walk into a big corporation with a $2,500 fine does not get anybody's attention. So when we sit down with a corporation we sit down with an aggregation of fines, and that may take several months to get that collection together, and we want to make sure we give them a good, true, executive level picture of the condition of safety as we found it over a 12-, 18-, or 24-month period.

We use an approach that takes time, and some of our critics say you take too long in that area. But many times we have to gather a decent amount to get their attention and to make sure they walk, talk, eat, and sleep safety.

We can now put sanctions on individuals in 30 or 45 days or a very, very short time. The shippers are slightly different, too.

So in evaluating FRA's violations, assessment, and settlement programs you have to look at it in those three different groups and individuals we have jurisdiction over.

SETTLEMENTS OF VIOLATIONS

Senator LAUTENBERG. I think that you have probably dealt with it.

If you wait until you have a gaggle of fines to go to the violator with, is there also then a tendency to say, "OK, look, let us make a deal?" It seems you are running a fair amount of discounts. We will get to that in a minute.

Mr. CARMICHAEL. They appear to be discounts. They are not discounts, sir.

Senator LAUTENBERG. Settlements.

Mr. CARMICHAEL. Many of the violations—let us say we have got 20 violations out here. The evidence on 10 of those violations may be just absolute. We do not settle those for one nickel less than what their face value is.

You have got five more that may be with some mitigating circumstances. These are jury cases. The case has evidence and the violators can counter with their evidence. So a few more of these violations may have some mitigating circumstances.

Senator LAUTENBERG. Is there an administrative process by which these first get reviewed? Do a lot of these go to a jury?

Mr. CARMICHAEL. Every single one of them could. They are those types of violations.

Senator LAUTENBERG. They could if they appeal it.

PROCESSING VIOLATIONS

Mr. LINDSEY. Would you like me to address process for a moment there, Senator?

Senator **Lautenberg**. Yes; you are charged with pursuing only the cases where FRA has a strong case?

Mr. **Lindsey**. Every last one of them, Mr. Chairman.

Senator **Lautenberg**. Every last one of the strong cases or every case?

Mr. **Lindsey**. Every case.

Senator **Lautenberg**. Well, tell me about it.

Mr. **Lindsey**. Well, the field inspectors file violation reports with my office. When they come in staff attorneys in my Safety Division review the case to see that the evidence is adequate for the violation charged. If we need some additional evidence we ask the inspectors to get it. And the test is, as Mr. Carmichael stated, whether or not we could prove the case in court, because ultimately that is where we may end up going.

And we had to go there with every case some years ago. There was a time when Congress had not given us the authority to settle cases and we had to try every one. That was an extremely slow and burdensome process.

Having been given the authority to settle, though, we prepare every case as though we were preparing for court, so that when we assess a civil penalty against a railroad or a shipper or an individual they are getting what amounts to court papers. They then go out and garner their evidence as well.

Then we sit down together at a settlement conference as though we were already in court and we negotiate over the merits of each and every claim. We settle them based upon their trial value. As Mr. Carmichael said, there are those that are settled 100 cents on the dollar. There are some that are dismissed because the railroad offers a complete defense of which we had been unaware.

On others they have some mitigating factors or they have evidence that contradicts some of ours, and we settle them somewhere in-between.

None of them are horse traded.

Senator **Lautenberg**. Is there about a 50-cent-on-the-dollar average for cases? That is the number I get. Is that right?

Mr. **Lindsey**. Most years we have ended up with an average over the year somewhere in the high 50's—57 percent, 58 percent. I think one year we were as low as 53. But that is averaging out.

Senator **Lautenberg**. If you were to extend that, does that say that, therefore, your inspectors charged these violators erroneously some significant portion of the time? I mean, because if it is a strong case and you have a fine that is collectible, discounted by 50 percent on balance, does that say that in lots of cases we do not have a clearcut violation being presented with evidence to support it?

Mr. **Lindsey**. No, Mr. Chairman; we think our inspectors do make good cases, and we take care, when we think the evidence is inadequate, to ask them for more. But they will not always have seen the defenses that the person charged may have. Sometimes the evidence that is available is simply limited. It may be circumstantial and we can argue about that.

Evidence can vary a great deal in quality without the inspector having done anything less than a top quality job.

BACKLOG OF VIOLATION REPORTS

Senator **Lautenberg**. Do you have a significant backlog of safety reports currently pending before FRA?

Mr. **Lindsey**. Yes, Mr. Chairman; we do.

Senator **Lautenberg**. Why is that? Have your attorneys been able to keep up with all the violations cited by your inspectors?

Mr. **Lindsey**. We have not, and it is a matter of resources lagging behind work. The number of violation reports turned in by the field inspectors quadrupled from 1983 to 1988, with no increase in the number of attorneys handling them.

Senator **Lautenberg**. Why do you not ask for an increase in the attorneys to handle it?

Mr. **Lindsey**. Well, as we detected it, we began, sir, and in 1989 you gave us four attorneys, and you can begin to see in the data now the bite that is coming from those additional resources.

Senator **Lautenberg**. What is the backlog right now, would you say?

Mr. **Lindsey**. Well, the total number we have is about 16,000. Of that, I would characterize as backlog about 9,000.

Senator **Lautenberg**. Is it fair to say that the income derived from collections would offset the costs incurred in staffing?

Mr. **Lindsey**. Yes, sir; readily—many times.

FINES UNCOLLECTED

Senator **Lautenberg**. I would ask you to get your staff up to where it ought to be, start rolling those fines. We are not going to put you on a quota like they do in the police department, but it sounds like good business to me.

What is the amount of uncollected fines currently outstanding for 1990—$1 million?

Mr. **Carmichael**. No; it is several.

Mr. **Lindsey**. It is about $14.1 million, I believe, at the moment, Mr. Chairman.

Senator **Lautenberg**. That is considerably different than last year's estimate of almost $6 million, correct?

Mr. **Lindsey**. Yes.

Senator **Lautenberg**. What accounts for that incredible buildup? You added four attorneys. You say you are gaining on it. That does not look like much of a gain to me. Maybe I am missing something.

Mr. **Lindsey**. Well, it results from putting those attorneys sharply to work. Last year, we assessed more than $5 million and collected more than $4.6 million. In the first quarter of this year alone, we assessed $8.3 million, which is more than we had assessed in any single year in the previous decade, and that pace is continuing.

For the first 5 months of the year, we have assessed over $10 million.

FINES COLLECTED

Senator **Lautenberg**. What have you collected so far this year?

Mr. **Lindsey**. I do not have that number, Mr. Chairman, and that is part of the difference. Collections lag in the year. We are on a cycle where we tend to assess more early in the year and collect more late in the year. Collections thus far this year are probably in the few hundred thousands of dollars.

Senator **Lautenberg**. I would be interested in how that compares with the same time last year.

Mr. **Lindsey**. I will be happy to submit that for the record, Mr. Chairman.

Senator **Lautenberg**. OK.

[The information follows:]

Between October 1, 1988 and April 19, 1989, we collected $660,568 in civil penalties. Between October 1, 1989 and April 19, 1990, we collected $535,890 in civil penalties.

HAZMAT VIOLATION PENALTIES

Senator **Lautenberg**. According to the data supplied by FRA, the amount of civil penalties collected by your agency for hazmat violations dipped from about $647,000 during fiscal year 1987 to below $400,000 for 1988. You have collected $636,000 in 1989. Why was there that big dip in 1988? I notice that also in the other fines.

Mr. **Carmichael**. Mr. Chairman, one of the answers I have got for it is the Rail Safety Improvement Act of 1988 absorbed the FRA during that time. That is part of the explanation, because the whole agency had to devote its time toward the creation and evolution of the safety act.

These lawyers, for example, do both. We have—how many lawyers?

Mr. **Lindsey**. We have 11 now.

Mr. **Carmichael**. We have 11 staff lawyers.

Senator **Lautenberg**. Are they the same ones who write regulations?

Mr. **Carmichael**. That is right. It has been a tremendous load on the agency between that period and now.

Senator **Lautenberg**. Given the volume of hazardous material growth transported by rail since 1985, the penalty collections overall seem to have declined. Is it your view that safety has improved that much?

Mr. **Lindsey**. Do you want to answer that?

Mr. **Carmichael**. You give yours and then I will add to it.

Mr. **Lindsey**. Yes, Mr. Chairman; we think safety has improved, but I think there was only a dip in collections rather than a steady decline. You will find that the numbers both in hazardous materials collections and in everything else rose in 1989.

To further address your question on why the dip in 1988, it was, in addition to the RSIA activities, also a bit of turnover. We had seven staff lawyers in the safety division at that time. That year three of those seven left, so that for a significant portion of the year while we were trying to hire more we had only four lawyers. And trying to cope with the extra workload and those departures put us behind.

DISCOUNTING OF FINES

Senator **Lautenberg**. The records indicate that major companies have had their hazmat fines discounted by more than 50 percent and then they are cited again for the same kind of violations. And then, once again, they get to double-dip and they have their fine discounted by roughly 50 percent.

Can you expect the industry to take the penalty process seriously when they continue to get those big discounts on fines? What does it mean if you are big enough to throw up a measly couple hundred on a $2,000 fine? What accounts for that?

Mr. **Carmichael**. Mr. Chairman, using averages on settlement cases may be normal mathematics, but when you sit down with a class I railroad with $200,000 or $300,000 worth of violations, and you go through each one of them and settle each one of them, they do not take them as an average. They are looking at these violations and these infractions and the cost. So I do not think you will find that they are sitting there saying, after it is all over, well, we got off with 50 cents on the dollar.

That is a bad way to evaluate what a settlement situation with a railroad is. That $250,000 that is collected from that railroad on, say, $350,000 worth of cases is a strong deterrent and they take it very seriously and they are quite worried about it. And it goes all the way back down through the system.

Senator **Lautenberg**. How do you account, then, for repeat violations of the same things? What does it take? You know the old story of the guy who was selling the donkey. He said, "This is the best donkey. He listens to everything I say and just performs well." The buyer says, "Well, let me see him in action." Then the seller picks up a 2 by 4 and hits the donkey in the head. And the guy says, "If this donkey is so good, why did you have to do that?" And the seller answers, "You just have to get his attention first."

Mr. **Carmichael**. That is exactly what our settlement cases are, a good 2 by 4.

Senator **Lautenberg**. But it is not getting their attention. That is the problem.

Mr. **Carmichael**. Well, sir, if you look at our safety records since 1981, since the Staggers act, since deregulation, and you look at the trend lines, they are down significantly.

Senator **Lautenberg**. There are also lots of accidents with huge potential for disaster associated with them.

Mr. **Carmichael**. That is right. We are constantly aware of that. That is the reason why if any trend is up—for example, we have a trend right now that has gone up that is worrying us very much, and that is the highway-rail crossings jump this last year, and we cannot assume that that is a blip. We have to assume that that is a very dangerous signal, and our whole inspector staff across the country has been briefed on that.

We cannot assume that the trend is going to stay down. That is why I am pushing aggressively to get these inspectors on board and starting a training program to make darn sure that they are the best.

AUTOMATIC TRAIN CONTROL

Senator **Lautenberg**. There are a couple of subjects I want to cover, and then we will conclude. One is the automatic train control system, in which I have had a very active interest. Back in 1988, following the crash of the Amtrak train with the Conrail locomotive in Chase, MD, I saw to it that the new Rail Safety Improvement Act required the installation of ATC systems on the Northeast corridor and on the spines that radiate from there.

The deadline for the installation of that equipment was April 1, 1990. Last year, Mr. Lindsey, you told me the following: "The schedule under the orders are set up so that no one can wander along on April 1, 1990, and say 'April Fool, we do not really have it done', because schedules are staged quite carefully. If people are not keeping up with the schedule, we have the opportunity to do something about it along the way."

Well, it is past April 1. Do you want to bring me up to date? Has the entire corridor and the relevant spines from the corridor been equipped with ATC's?

Mr. **Carmichael.** We are taking other action to make them comply, and I would like Mr. Walsh, who is intimately familiar with this Northeast corridor ATC, I would like him to answer that, if you do not mind.

Mr. **Walsh.** Mr. Chairman, after the 1988 Rail Safety Improvement Act passed, we looked at what was the quickest way of meeting the statute's requirements, and we used the Signal Inspection Act rather than the 1988 act, which gave us, I think, an expedited way of requiring it. We also looked at the spine lines, the line going down to Atlantic City, the line going up to Albany, the line going up to Hartford, CT, and felt that they should also have ATC.

ATC was in the signal system at the time, and it just needed the retrofit of the locomotives. One freight road came to us and said there is new technology available now that would allow us to get the same results but using computers rather than relays and hot-wired systems. They developed that system and we have found that it works very well.

The freight roads are going to make the April 1 deadline. They have made it. They have retrofitted their equipment.

We looked at some of the commuter lines. New Jersey Transit was one. Jersey Transit said they would like to go to a seven-aspect system rather than a four-aspect system. That would allow them to run their trains closer together in the same traffic density. And working on the seven-aspect system and also a new prototype there was some falling behind. We have done quite a bit of testing in off-peak hours when nonrevenue passenger trains are out there. Metro North, MBTA, Jersey Transit, will all have this new prototype system installed on their locomotives by July 1.

On other commuter line out there we have had a problem with, Southeastern Pennsylvania Transit Authority. We, in our regulations, said we would like to have lights installed on the outside of the locomotive so that we would know that the system was engaged at all times, and they have had trouble with the retrofit. I do not believe that is a major problem, and we are giving them some relief.

I do have one major concern and one major problem. The SEPTA system requires or allows at the present time an emergency brake application. Our regulations require a full service brake application. I am negotiating and working with the management of SEPTA on a program to modify their equipment so that they will have a full service application.

I have taken it that we have the authority to not allow the operation, but I also feel that Mr. Claytor and the Amtrak management possibly have the authority to stop any operation of the commuter lines on April 1 if the deadline was not met. However, in our discussions and our negotiations with SEPTA, Jersey Transit and keeping Amtrak management informed we feel that we have made sufficient progress that we will have the ATC in place by July 1.

ATC COST EFFECTIVENESS

Senator **Lautenberg**. I am looking at your testimony in the House. You say you cannot blame it on the supplier as much as on the attitude of SEPTA management. Where the required retrofit would probably be more expensive, they do not want to go into that.

Do they have a cost-effective yardstick by which they can measure their safety decisions?

Mr. **Walsh**. We felt they did, Mr. Chairman. The seven-aspect system is a very desirable system. I do have some concerns. I would not like Jersey Transit operating on a seven-aspect system under the Hudson River without some work done on electrification. I believe Mr. Claytor and his staff support me in that decision, because trains would be running at very close intervals. I am also concerned about the electrification.

But I think the modification that is going on at the present time would allow Jersey Transit to comply with the ATC regulation and not restrict them from eventually installing a seven-aspect system. I think we have made some very good decisions.

Senator **Lautenberg**. They can install the system of their choice in order to get cost effectiveness. But the fact is that we do not want, any of us, to have to witness the tragedy of a passenger train accident because of a fault of the system or an individual, and we want to see those systems installed. There was agreement that it could be done by that time. We dealt with it last year and were reassured once again.

Now, you say Jersey Transit will have met their obligation by July 1, and SEPTA may not have their system in place.

Mr. **Walsh**. SEPTA will have their system in place, except that it will require or allow an emergency brake application rather than a full service application.

Senator **Lautenberg**. What is the difference? Do the passengers get tossed around if there is an emergency brake application?

Mr. **Walsh**. That is my concern. The train will stop. The passengers that are riding in the train could be thrown around. The equipment could be damaged and I feel that it is entirely wrong, and I am the one that would have to sign the waiver petition, and I am very concerned and I will not sign.

Senator **Lautenberg**. I would like to just see them get on with their task.

Mr. **Walsh**. I am in complete agreement with you, Mr. Chairman. I am not about to sign a waiver petition and then have some injuries happen. We would have the same experience when you and I were up in Chase, MD, on that Sunday afternoon.

MAGLEV FUNDING REQUEST

Senator **Lautenberg.** I am pleased to see that FRA is requesting more than $6 million for research in maglev technology. What was the funding amount, Mr. Carmichael, that you originally requested of OMB for this initiative?

Mr. **Carmichael.** It was $4.1 million.

Senator **Lautenberg.** Did they give you more than you wanted?

Mr. **Carmichael.** Yes, sir.

Senator **Lautenberg.** Why?

Mr. **Carmichael.** They are very seriously interested in this new technology.

Senator **Lautenberg.** More interested than you were?

Mr. **Carmichael.** No, sir.

Senator **Lautenberg.** Did you feel that with that $4.1 million you were putting the resource to the task that it needed?

Mr. **Carmichael.** We had to be in line with budget constraints. And being very serious in my first year I had to request exactly what I thought was necessary. More than likely my own cautiousness made me think a little too small and not big enough. The fact that the $6 million was proposed in the budget has been a very good signal to FRA and its research and development staff that the administration is quite interested in this technology.

We are very happy that they are, and we are moving rapidly with our project, subject to appropriations and with the Corps of Engineers and their $3 million.

MAGLEV PROGRAM COORDINATION

Senator **Lautenberg.** They are asking for $3.5 million. What can you tell me about the coordination of the projects between the two agencies?

Mr. **Carmichael.** Very good coordination. We formed what I call an intergovernmental working committee. Mr. McQueen is chairman of the intergovernmental committee. They have been meeting almost weekly since these signals were given.

Senator **Lautenberg.** Who is the lead agency?

Mr. **Carmichael.** The Federal Railroad Administration, and the Department of Transportation. We are cochairing with the Department of Defense, Corps of Engineers. General Kelly and I are working together very well. We have also created a policy committee, the Maglev Executive Committee, that is made up of DOE, DOD, Department of Transportation, the various agencies in DOT, and EPA.

All of us have some very high level interest in this project.

Senator **Lautenberg.** Is the technological knowhow in this country on maglev sufficient to potentially leapfrog over the Japanese and Germans in the short term or even longer term? Do we have a chance to step out ahead of them?

Mr. **Carmichael.** I get a little bit hurt in a sense as an American citizen. The linear motor that is being used in all of these maglev technologies, FRA had a lot to do with its creation and invention. This is our project as much as it is a German and Japanese project.

The Germans and Japanese have spent a lot of money developing it, but the invention, so much of it started right here in the United

States. The United States has the ability to move rapidly now that this is becoming a proven product. One of our jobs under this request for funds is to find out quickly—and we will do it in this June report to you—what companies, businesses, industries, and construction companies in the United States have a deep interest in this technology and are willing to make commitments to it.

So I think we can not only dominate the technology in the development of it in this decade, but I think we can also create what I call the third generation of maglev.

Senator LAUTENBERG. Is it a proven product?

Mr. CARMICHAEL. I have ridden it two times in Emsland, Germany, the Trans-rapid system in Germany. I have not ridden the one in Japan. The one in Germany is ready for manufacture. Bechtel Corp. has come to me a couple of times. They have investigated it from a construction standpoint and one of their senior officials told me that they saw no flaws in it, no bugs in it, and it was ready for manufacture.

Mr. Claytor and I both rode it, and Mr. Claytor's remark was that it is a finished product.

AMTRAK'S VIEWS ON MAGLEV SYSTEMS

Senator LAUTENBERG. Do you feel that way, Graham?

Mr. CLAYTOR. Yes, sir. Mr. Chairman, my view of it is we are ready for a short commercial trial. My problem with it is that any new technology like this that has only been tried out on a test track is tested and it works fine. But it is run maybe once or twice a week in tests.

I want to take it, put it on an 18- to 20-mile run, a short run, it would be, not too expensive to try, and operate it commercially, meaning run it all day carrying passengers. And then we are going to find out what items do not stand up. How much does it cost to maintain it? What are the operating costs? What problems are in it? What components fail and have to be replaced?

When we get that information from actual practice, I think we are then ready to make a long one like Los Angeles to Las Vegas or Los Angeles to San Francisco or something like that. But the first step needs to be a relatively short commercial operation operating under commercial conditions, and let us find out what problems there are. There will be some.

Senator LAUTENBERG. Have either the Japanese or Germans put this into a test mode in commercial operation?

Mr. CLAYTOR. No, sir.

Senator LAUTENBERG. Why not?

Mr. CLAYTOR. Apparently, the Germans told us, Mr. Carmichael and me when we were over there together, they plan a 60-odd-mile maglev between two major airports in Germany but that they thought that that could not actually be built until about 1997 because there were so many local community restrictions on construction, on use of land, on other things that they did not think they could get permission to build one in Germany for a long time.

They are very much interested in having us be the first ones to try it. I know that the group in Florida is working with a combination of the Germans, the Japanese, Americans, and others, and I would like to see that one go, or one like it.

Furthermore, we would like to be involved in it. We would like to become the operator, and we have told them that.

Senator **Lautenberg**. Mr. Carmichael, Amtrak gets a chance to get a pitch in here. I think they deserve it.

Mr. **Carmichael**. Most of the systems that are being planned, private systems that are being planned around the United States do intersect with the Amtrak system.

HIGH-SPEED TECHNOLOGIES

Senator **Lautenberg**. Help me through. Does it use steel rail?

Mr. **Carmichael**. No, sir. Maglev, the best way you can describe it is a bridge, in a sense, up in the air, with a guideway like this. It has got magnets underneath it, and the train itself wraps around it. When it energizes its magnets, it levitates. It moves up, has a small airspace between the base of the vehicle and the track.

Senator **Lautenberg**. How does it then interface with steel rail?

Mr. **Carmichael**. There are three technologies. Maglev is a separate technology. The first is the steel-on-steel high-speed. The TGV French train is steel-on-steel, high-speed, 180- to 200-mile-an-hour train. the second is the tilt-train technology for high speeds on curves. The third is maglev.

Maglev is a frictionless train operating in an air space, in a sense, above its guideway at about 300 miles an hour. So there are three very fine advanced technologies.

The other comment on Germany that is important, Germany, in a race with France on building this high-speed European train system, is spending $20 billion on the high-speed steel-on-steel, the Intercity Express [ICE] train. So they have stretched themselves to do that technology to connect with the English tunnel and the whole system over there. They literally cannot do both.

FEDERAL ROLE IN MAGLEV DEVELOPMENT

Senator **Lautenberg**. I take it, Mr. Carmichael, you do foresee a role for the Federal Government continuing to put dollars in, significant dollars, for development of maglev systems?

Mr. **Carmichael**. I would love to see the Government in the partnership with the private sector that the Secretary and the President are talking about. I would love to see the Government, FRA, and DOT, be innovative and stimulative. I want us to develop the safety regulations and the safety standards at the same time that they are getting ready to run it. I do not want us to be a drag and hold it back.

So I think in this new partnership that the Secretary of Transportation is talking about we can use our $6 million and play a very important role in stimulating and bringing this technology on stream in this decade.

PRIVATE SECTOR SUPPORT FOR MAGLEV

Senator **Lautenberg**. Have any companies expressed serious willingness to invest major sums in developing an advanced generation of maglev systems in our country?

Mr. **Carmichael**. Yes, sir; as I mentioned, Bechtel Corp. is one. They have said that they would like to—I think I can honestly openly quote this senior partner with Bechtel—build the Los Angeles-Las Vegas 250-mile project.

Senator **Lautenberg**. And operate it?

Mr. **Carmichael**. I do not know whether they would operate it. They may want Amtrak to operate it.

FRA'S MAGLEV PROGRAM

Senator **Lautenberg**. Do you have an individual heading up this effort?

Mr. **Carmichael**. Our research and development staff, Mr. Bob Krick. In fact, Bob is here with us, and he is the Director of Research and Development at FRA.

Senator **Lautenberg**. That is all R&D? That includes other safety things as well as maglev?

Mr. **Krick**. Yes, sir.

Senator **Lautenberg**. How much effort is being given to the maglev side of things?

Mr. **Krick**. This past year we have been working, at the direction of this committee, to develop the report on maglev and through the Rail Safety Improvement Act of 1988 on responsibility for the safety standards. That activity in this past year has involved about 15 people, maybe about 8 equivalent man-years of effort.

Senator **Lautenberg**. Do you have any kind of advisory board from the private sector conferring with you on this?

Mr. **Carmichael**. No, sir; not at this point. But for this report in June we have been surveying and we have contracted with an independent firm to survey American industry to find out just how much interest is in this desire to have an American system and leapfrog the foreign competition. We have found very good, strong interest among quite a few companies.

Senator **Lautenberg**. Do you want to add something?

Mr. **Carmichael**. Mr. McQueen would like to add something on it.

Mr. **McQueen**. As a part of the maglev development effort we are contracting with the Transportation Research Board of the National Academy of Sciences to provide us with a blue-ribbon committee which will advise us, review some of our technical and economic work, a kind of standoff, hands-off review process. So we do have that committee.

HEALTH RISKS OF MAGLEV

Senator **Lautenberg**. Who is going to be responsible for looking at the possible health effects of these magnetic fields? Because there have been questions raised about it.

Mr. **McQueen**. As a part of the Federal interagency working group, the Environmental Protection Agency is a member and we would look to a group like that or to some of the other Federal national laboratories.

Senator **Lautenberg**. That has got to be a major factor in your review.

Mr. **McQueen**. It certainly is a major factor, and we have built that into our technology assessment work.

U.S. LEADERSHIP IN MAGLEV TECHNOLOGY

Senator **Lautenberg**. There has been quite a stir about the possibility of the fields surrounding electric wire and electric transmission through overhead wires. I think I saw something recently that said that the court decided that there was no risk and gave permission in the State of New Jersey for one of the companies to either build or initiate its long-line electric transmission.

We will close with this and just ask how you respond to people who say, "Well, other countries are doing the research, they are developing it. Maybe turnabout is fair play." Usually it is American development that gets improved upon, compacted by our friends, and gets its refinement at a substantially lower cost than its development. How do you view that, Mr. Carmichael?

Mr. **Carmichael**. Mr. Chairman, having been an automobile dealer, I remember that the Germans, Daimler-Benz or somebody, claimed that they invented the automobile, but we created Ford Motor Co. and General Motors and dominated this industry.

I think we invented this magnetic levitation, this linear motor that came out of American brains and technology. I do not see any problem in this global world that we are in right now why we cannot dominate the existing technology and the implementation of it and that we cannot develop an exciting third generation of this technology.

I believe the forces are coming together for us to do that as the environment and the air quality and all of that pushes us this way.

Senator **Lautenberg**. It would be nice for a change to have something that we can say was invented here, produced here, and sold here.

Mr. **Carmichael**. And made money on it here.

Senator **Lautenberg**. Oh, yes, I am for the free enterprise side. That is how I got to afford this job. [Laughter.]

SUBMITTED QUESTIONS

I thank you all for your participation. Be aware, Mr. Carmichael, that we will submit questions. We would like a prompt response and we thank you and your associates for your testimony.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

OFFICE OF THE ADMINISTRATOR

SENATOR LAUTENBERG: As part of your budget justification for the Office of the Administrator, Object Class 13.0--Benefits for Former Personnel, shows an increase from $53,000 in 1990 to $800,000 in 1991. Please explain this dramatic increase.

ANSWER: The "Benefits to former personnel" for FY 1991 includes $743,714 to reimburse the Department of Labor for actual payments to former Federal employees of the Alaska Railroad for workers' compensation claims and one-time buyouts during the period July 1, 1988 through June 30, 1989. FRA is required by statute to request an appropriation from Congress to reimburse the Department of Labor.

SENATOR LAUTENBERG: In Object Class 25.0--Other Services, you show a level in 1990 of $16.3 million dipping to $3.6 million in 1991. Please explain this significant decrease.

ANSWER: The FY 1990 obligations include an estimated $10 million for settling contractor claims related to the Washington Union Station rehabilitation. To make these payments, we will use carryover funds recovered from the Penn Central in September 1989 through an arbitration settlement on previous financial assistance to Penn Central during the creation of Conrail.

The remaining $2.7 million in obligations during FY 1990 reflect other non-recurring contractual projects.

SENATOR LAUTENBERG: FRA is seeking $234,000 for portable computers. What pilot testing has or will be done with these computers in the field?

ANSWER: The portable computers are for the railroad inspectors to use during inspections, accident investigations and for productivity reporting. There are only 12 portable computers in use now. These computers are being heavily used extensively.

An alternative approach to portable computers is being studied by FRA's Office of Management Systems. A hand held device called a ScriptWriter would allow the inspector to enter inspection and productivity data without generating a handwritten form and without keying the data into the computer. There are many concerns about the capacity of the ScriptWriter to perform editing, store all the codes necessary to capture the variety of inspections the FRA inspector performs, or if some combination of ScriptWriter and desk top computer editing will work. If the ScriptWriter can perform the tasks to improve the inspector's productivity and collect the information necessary, then a re-evaluation of the portable computer proposed acquisition will be made.

If the ScriptWriter approach cannot be used, then the FRA will purchase portable computers for all the inspectors in one to two regions to evaluate usage and productivity. This will be done on a trial basis to determine if the inspection force should each have a portable computer. If a determination is made that this is not worthwhile or cost-beneficial, these computers can be used in field and regional offices for other recordkeeping and data analyses.

KIND WORDS, NO BUCKS FOR AMTRAK

SENATOR LAUTENBERG: Has the Administration proposed any legislation to eliminate Amtrak's labor protection responsibilities so it can eliminate routes and fire personnel and still run some limited routes without a subsidy?

ANSWER: Not for the FY 1991 budget process. However, the Department will develop a plan for Amtrak self-sufficiency with the cooperation of Amtrak management. That plan will contain a number of legislative proposals designed to enable Amtrak to operate more as an efficient enterprise. Changes in labor protection will be given serious consideration in this context.

BREAKING OUT AMTRAK'S MANDATED SUBSIDY

SENATOR LAUTENBERG: For the first time, Amtrak's budget materials breaks out that level of operating expenses that are mandated by law, and that level of the Federal subsidy which actually comes right back to the Federal Government. These include payments into the railroad retirement fund and railroad unemployment fund. In both of these cases, Amtrak puts in far more money into these funds than its own employees can hope to take out. What is your view on the idea that we should appropriate these funds directly to the FRA, and have the FRA make these contributions, rather than send these funds to Amtrak so that Amtrak can send them right back to the Federal Government?

ANSWER: We have some concerns with this proposal. While we believe it is legitimate for Amtrak to restate its budget in these terms and to track Amtrak's financial performance both in conventional and in restated terms, we do not recommend institutionalizing the change through the appropriations process for two reasons: first, it removes an incentive for Amtrak itself to press for changes in the funds; and second, since the benefits are subject to negotiations between railroads and their unions, all railroads, including Amtrak, should internalize the costs of providing these benefits and not have them provided by FRA, which is not a party to the negotiations. It will be better to solve the basic problems. In the case of the unemployment fund, railroad contributions should reflect the benefits to its own employees. In the case of the retirement fund, I await the recommendation of the Commission on Railroad Retirement Reform before supporting a specific solution.

SENATOR LAUTENBERG: If we were to make this distinction in the appropriations bill, what level of funding, in your view, should we segregate out to be funneled through the FRA?

ANSWER: Amtrak has estimated that their total FY 1991 payments to the railroad retirement fund will exceed the amount of benefits to be received by former Amtrak employees by about $135 million. Similarly, Amtrak estimates excess payments of $17 million will be made to the railroad unemployment fund during FY 1991. We would have to work very closely with Amtrak and the Railroad Retirement Board in reviewing the register of eligible beneficiaries and their employment records in order to estimate the amount to be segregated.

REHABILITATION OF AMTRAK LINES IN ILLINOIS

SENATOR LAUTENBERG: In last year's bill, Congress provided for a $3.5 million guaranteed low-interest loan for rehabilitation of Amtrak lines in Illinois. Can you tell us what the status of the project is?

ANSWER: The Federal Railroad Administration has completed staff review of the proposed $3.5 million loan designed to supplement State of Illinois loans to provide for a welded rail rehabilitation program on the line used by Amtrak between Chicago and East St. Louis. Draft loan documents have been prepared and these are being reviewed. There are no outstanding substantive issues.

However, a problem has arisen with respect to the Congressional appropriation of the loan funds. The U.S. Treasury has interpreted the language in P.L. 101-164 as an authorization only — not an appropriation, and has refused to make the funds available to the Department of Transportation. DOT's General Counsel formally requested the United States Comptroller General make a ruling on this issue. If the ruling is favorable, the loan can be made promptly after the Treasury issues an appropriation warrant to FRA.

TERMINATION OF NECIP/NORTHEAST CORRIDOR ROUTES

SENATOR LAUTENBERG: Amtrak maintains that the extraordinary cost of maintaining the Northeast Corridor effectively means that all of the routes through the corridor are unprofitable. Do you concur in this view?

ANSWER: At the present time, no Amtrak service on or off the Corridor covers its fully allocated cost, that is, the total cost, including the overhead and fixed costs of maintaining the Northeast Corridor.

SENATOR LAUTENBERG: Do you believe Amtrak can run the Northeastern routes without a subsidy and maintain its ticket revenue and ridership?

ANSWER: Amtrak would still need a subsidy to run its Northeastern routes at the present time and under current conditions.

SENATOR LAUTENBERG: Does it make sense to simultaneously propose to terminate Amtrak's subsidy and terminate the Northeast Corridor Improvement Program (NECIP)?

ANSWER: Amtrak has made outstanding progress in reducing operating costs and increasing revenues. Under Graham Claytor's leadership, Amtrak's management and employees can be proud of these accomplishments. Nonetheless, both the Department and Amtrak senior management agree that further improvements are possible and, in fact, that Amtrak can generate sufficient operating revenues to cover all operating expenses and become self-sufficient by 2000, not just in the Northeast Corridor. However, there is no plan in place to bring Amtrak to self-sufficiency and the Administration is reluctant to fund Amtrak without a strategy which identifies the total cost over time.

SENATOR LAUTENBERG: Who do you expect to maintain the Corridor if there is an immediate termination of Amtrak's capital funding as well as termination of NECIP funding?

ANSWER: If no Federal subsidy is provided, Amtrak would have to adjust its operations to fit available resources. Whether this is possible would depend on the agreement of Amtrak's employees to a scaled down operation. There would be considerable interest in keeping the NEC and other parts of the system operating, but this could only happen if labor protection claims were not pursued. In the event of a shutdown caused by Amtrak's inability to satisfy such claims, the commuter agencies and freight carriers that operate on the corridor would have to take over the responsibility of operating the required portions.

SENATOR LAUTENBERG: Won't this policy only make our problems in the Northeast with highway and air congestion worse? What about "clean air"

ANSWER: We do not want to kill Amtrak but our primary concern is that we adopt a long term course that will help Amtrak eliminate the need for Federal operating subsidies and help make service more cost effective. We are concerned that there is nothing, not even hortatory language, in the bills that encourages Amtrak to move toward self-sufficiency. We would like to see a goal expressed and a reasonable timetable with milestones such as would be contained in the strategy for self-sufficiency which we are committed to working out this year. An efficient, self-sustaining Amtrak will continue to contribute to congestion relief of other modes and reduce air pollution in the Northeast Corridor.

GAO CRITICISM OF FRA HAZMAT PROGRAM

SENATOR LAUTENBERG: The GAO recently submitted a very critical report of your hazardous materials inspection program. Among its findings, the GAO said that:

- FRA does not use a systematic approach to target high-risk shippers and railroads for inspections.
- FRA does not adequately educate its inspectors as to their authority to cite shippers for safety violations and deciding which shippers should be selected for inspection.

- FRA inspectors concentrate too heavily on inspecting individual tank cars, rather than evaluating the overall adequacy of the shipper's safety procedures.
- FRA did not have a sufficient number of inspectors to ensure adequate compliance with its own hazardous materials regulations.

Mr. Carmichael, I'd like you to respond to each of these GAO findings, and tell us how you plan to address them? What funding initiatives are contained in your budget to address each of the GAO's findings?

ANSWER: The FRA is developing a system to track high-risk shippers. Some of the factors to be considered are the potential severity of consequences from any given deficiency (based on the hazard characteristics of the product), frequency of FRA defects and RSPA incident reports per annual car volume, and the date of the last FRA inspection or frequency of inspection. These factors, in turn, may be used to define the empirically probable number of defects per annual car volume with consideration of the degree of risk posed by an individual hazard class.

FRA's Office of Chief Counsel and the Office of Safety have currently revised the Hazardous Materials Enforcement Manual to reflect the GAO's concerns. Also, in December of 1989, FRA issued an Enforcement Bulletin to its field personnel delineating their responsibilities and authority to cite any person who affects the transportation of hazardous materials by rail. As an added measure, this bulletin is reviewed at each of FRA's 1990 regional meetings.

FRA agrees with the GAO's recommendation regarding monitoring a shipper's safety procedures and has instructed its inspectors to pay special attention to shipper practices and procedures.

FRA recognized the need for additional hazardous materials specialists/inspectors and with the anticipated hiring of eight hazardous materials specialists and two additional inspectors before the end of FY 1990, the total number of hazardous materials specialists/inspectors onboard will be 44. This is in line with our staffing model and is a sufficient number to ensure the necessary monitoring of shippers/ consignees and tank cars for compliance with FRA regulations. Sufficient funding has been requested in FY 1991 to maintain this level of hazardous materials staffing.

BACKLOG OF HAZARDOUS MATERIALS VIOLATIONS CASES

SENATOR LAUTENBERG: How many additional attorneys did the Office of Chief Counsel originally ask DOT for during the preparation of the FY 1991 budget?

ANSWER: FRA requested an additional two attorneys and two secretaries in our original FY 1991 budget submission to the Department. The Department's passback assumed that we would be able to reallocate positions and staffing from other programs being phased-down or terminated.

SENATOR LAUTENBERG: How many additional attorneys would be required to reduce the workload to a manageable level?

ANSWER: After taking into account the reassignments of positions and FTEs that are being made, eight more attorneys and four more secretaries would enable the Safety Division to eliminate the backlog the year after they were hired and to assess and collect civil penalties very quickly after violations occur.

WHY GRANT EXEMPTIONS FROM HAZMAT REGULATIONS

SENATOR LAUTENBERG: Your budget indicates that last year, you processed 134 exemptions and 10 emergency exemption applications for relief from your hazardous materials regulations. How do those figures compare to previous years? On what basis do you determine who will be granted these exemptions? Why do we grant any exemptions at all?

ANSWER: Request for exemptions have moderately fluctuated during the past three years. For example in 1987, FRA processed 106 routine exemptions and three emergency exemptions; and in 1988, FRA processed 90 routine exemptions and 9 emergency exemptions. For clarification, exemptions are granted from RSPA's regulations--not FRA's. It may be aptly stated that FRA's sole capacity in the exemption process is a contributor of technical expertise and signatory for modal concurrence.

To put the record straight, FRA does not grant exemptions but only processes those exemptions granted through the Research and Special Programs (RSPA) according to the exemption process (49 CFR 107.103) on a routine basis. Before an exemption is issued, the applicant must first petition RSPA for an exemption, which is then published in the FEDERAL REGISTER for public participation and comment. RSPA initiates the exemption process within the Department of Transportation and forwards the application and a draft exemption to the agency concerned for modal concurrence. When FRA receives the application from RSPA, FRA's technical staff performs an examination of the applicant's petition and related facts. FRA recommends to RSPA to grant the exemption if the applicant can demonstrate that relief from a particular regulation provides an equal or greater level of safety than the current regulations, but RSPA makes the final decision.

As an illustration, an exemption issued to the Union Pacific Railroad Company allows a shipper of a hazardous material to transmit the shipping paper information electronically and certify that the shipment is in compliance with the regulations in a [computer] field designed for that purpose. The use of the exemption enhances the accuracy of the shipping paper information because the information is not transposed from one document to another.

When an applicant requests an emergency exemption from the regulations, the applicant must directly petition the modal agency concerned. When FRA receives a request for an emergency exemption, FRA evaluates the request and determines if an emergency exist when:

- the conditions require the hazardous materials to be transported in commerce for the protection of life or property;
- the protection of life or property to be provided by the hazardous material would not be possible if the application is processed on a routine basis; or
- the prevention of serious economic loss.

FRA recommends to RSPA to grant the emergency exemption if the applicant can demonstrate that relief from a particular regulation is necessary based on the above facts (49 CFR 107.113).

As an illustration, an emergency exemption was issued to a shipper to transport an empty tank car last containing chlorine with an inoperative safety relief valve. The car developed a leak and the safety valve was "capped" with a Chlorine "C" kit to prevent the emission of chlorine vapors. To allow the car to remain near a public facility in an unsecured condition would be detrimental to safety; threatening the general public and employee safety, therefore, the car was allowed to be moved a short distance to effectuate repairs.

Exemptions are granted on the basis of equivalent levels of safety or levels of safety consistent with the public interest and the policy of the Hazardous Materials Transportation Act. A majority of the exemptions issued allow manufacturers to design new packages, and carriers to operate more effectively and efficiently than the current regulations would allow with no compromise in safety.

AUTOMATIC TRAIN CONTROL SYSTEMS

SENATOR LAUTENBERG: I understand that during your hearing with the House Appropriations Subcommittee, Mr. Carmichael, you expressed the concern that SEPTA may not have their system in place by July. You also expressed concern that the ATC system SEPTA is installing may not meet your requirements.

How will the system SEPTA is intending to use compromise safety as compared to the other ATC systems?

ANSWER: The system SEPTA is intending to use does not compromise safety as compared to other ATC systems.

SEPTA petitioned (December 4, 1989) the Federal Railroad Administration for an extension of time, until July 1, 1990, for the installation of automatic train control apparatus on trains operating on or within tracks of the Northeast Corridor as set forth in FRA's Docket 87-2, Notice No. 7. SEPTA has completed approximately 101 units out of 215 units, 47 percent, the remaining units will be completed by July 1, 1990.

Without approval of this petition, SEPTA's commuter railroad service would be severely limited affecting thousands of passengers each day. SEPTA operates 462 trains each weekday carrying roughly 98,000 passengers per day. Almost all of SEPTA's commuter trains operate on the Northeast Corridor during some time of the day.

The extension of the deadline date is primarily due to changes in design of new apparatus brought on by exceptions taken as a result of a safety analysis or exceptions taken by the FRA during tests of the apparatus. After studying the various systems on the market, it was determined that a completely new microprocessor controlled cab signal and train control system could be installed approximately $5 million dollars cheaper than modifying the existing cab signal apparatus.

REDUCING MIXED FREIGHT AND PASSENGER TRAFFIC ON THE NORTHEAST CORRIDOR

SENATOR LAUTENBERG: For several years now, I have encouraged FRA's efforts to remove or reduce freight traffic on the same track as passenger lines in the Northeast Corridor. Last year, you told us that there were 27 freight trains continuing operation on the Corridor. Have we seen this number decrease further?

ANSWER: The 27 daily freight trains reported last year slightly overstates the actual number of individually scheduled freight trains on the Northeast Corridor (NEC). Included in last year's figure were trains operating through more than one railroad division. These were counted separately for each division. Only 22 scheduled freight trains operated over the NEC main line last year. In May 1990 Conrail rerouted two additional trains off the Corridor and onto the CSX system, reducing current scheduled trains to 20 per day.

SENATOR LAUTENBERG: Does the segment from Trenton to northern New Jersey continue to be utilized for freight traffic?

ANSWER: Yes, the segment from Trenton, New Jersey to northern New Jersey continues to be used for freight traffic. Six trains are scheduled in this territory, the same number as a year ago. All operate at night.

SENATOR LAUTENBERG: Do we see a point in the future where we will not have any freight traffic utilizing the same tracks as the passenger lines on the Corridor?

ANSWER: FRA does not see a point in the future where all freight traffic will be removed from tracks used by passenger trains primarily because certain plants located along the Corridor have no alternative rail access except through Northeast Corridor trackage.

SENATOR LAUTENBERG: The Rail Safety Improvement Act also mandated that the DOT establish a Northeast Corridor Safety Committee. Please update us on the activities of this Committee, any recommendations they have made, and your actions on those recommendations.

ANSWER: The Northeast Corridor Rail Safety Committee published its report to Congress in November 1989. The Committee did not make recommendations but did highlight, from among the many issues discussed, three that deserved further consideration: improved coordination between local law enforcement officials and the railroad police to reduce trespassing and vandalism; increasing the training of operating personnel and supervisors, especially in the area of alcohol and drug abuse detection; and the suggestion that NEC railroads evaluate current procedures and practices for inspecting equipment before it is dispatched onto the Corridor.

MAGLEV

SENATOR LAUTENBERG: Is it your view that the U.S. will continue to play "catch-up" with the Germans and Japanese in the maglev area?

ANSWER: Given the private industry interest in the potential of maglev as a viable transportation mode and our identification of a significant market along with a firm commitment by the Federal Government to take such measures as are necessary to promote U.S. industry leadership in this field, both I and the industry representatives we have spoken to believe we can significantly improve on the existing technology.

SENATOR LAUTENBERG: Is the technology sufficiently developed in this country that, with a sufficient level of investment, we could commercialize an advanced maglev system in the 1990s? How much do you expect it to cost to develop an advanced system?

ANSWER: We could commercialize an advanced maglev system before the turn of the century if we hit the ground running with our proposed program in fiscal year 1991 and we maintain the momentum with the needed resources in the following years. Until we go through the evaluation steps outlined in the maglev program request and arrive at some conclusions in mid-1992, we can only roughly estimate the expected cost of an advanced maglev at $900 million.

SENATOR LAUTENBERG: Why have you asked for only one additional staff person in your R&D program to work on the maglev program, when you have asked for $6 million in funds?

ANSWER: The one staff position requested represents that portion of the budget earmarked for maglev safety, namely, $1.050 million. This was based upon our newly assigned mission responsibility in this area as put forth in the Rail Safety Improvement Act of 1988. The maglev technology assessment and development, and market and economic analysis portion of the budget is part of the interagency National Maglev Initiative. Until it is clear whether this initiative will result in a recommendation for a full scale development program in 1992, we do not believe it prudent to add significant staffing. In the interim, we are able to draw upon needed support from other elements of FRA and the Department's Transportation Systems Center with its broad-based capabilities. We also intend to have appropriate tasks performed by other agencies such as DOE, EPA, and the Corps of Engineers through the interagency transfer of funds.

SENATOR LAUTENBERG: Do you currently have one full-time individual heading up this effort? Don't you think the importance of this initiative merits at least one full-time program head?

ANSWER: Yes, we have a highly competent and maglev-experienced individual recently recruited from the private sector to head up our maglev program. He has experience in maglev development programs, and, in fact, was involved in some of the early development work. He is full-time on the program.

SENATOR LAUTENBERG: I see that your budget includes funding to do market feasibility studies for the development of maglev in the U.S. Given the potential of these systems, isn't it safe to assume that the private sector will conduct such studies?

ANSWER: The private sector will conduct its own studies when its funds are at risk. Certainly this has been and will be the case with regard to implementation of specific lines. With regard to technology development, market studies can be an important factor in demonstrating the existence and size of potential markets and thus important in stimulating private sector involvement. All of the high speed ground transportation projects now being considered by private sponsors had their start with Government funded market studies.

SENATOR LAUTENBERG: I understand you intend to contract out the majority of your work in the maglev area. Who do you anticipate will be performing these contracts?

ANSWER: We would hope to attract contractors from a broad spectrum of firms having a demonstrated research capability and willing to work in cost sharing arrangements in the development of advanced maglev systems and concepts. We would expect to attract both large and small firms through both a traditional request for proposal format and through the new Broad Agency Announcement (BAA) approach. The BAA should encourage participation from the small business community as well as entrepreneurs.

SENATOR LAUTENBERG: Most intercity maglev and HSGGT systems would cost tens of billions of dollars to build. More than nine-tenths of that cost, however, would be for acquiring land right of way and/or building the guideway and stations, even if the system is built along the Interstate Highway right of way. The cost of leasing the technology to build the maglev vehicles is dwarfed by comparison to the cost of the guideway and stations. Added to this cost would be the cost of operating the system and, in the case of HSGGT systems, maintaining the guideway. Would the cost of R&D to build vehicles likely be less than the cost of leasing the technology to build the vehicles, after separating out these other construction, operation, and maintenance costs?

ANSWER: Answers to the types of questions you have posed will not be available until completion of the trade-off studies to be funded by the FY 1991 budget request. We will report on these results as soon as they are available.

HEALTH RISKS OF MAGLEV

SENATOR LAUTENBERG: Some studies indicate that exposure to electro-magnetic fields leads to greater risks of cancer, especially among children. Do we know what the long-term health effects of these fields might be on operating personnel? What do we know about the relationship from electro-magnetic fields generated by maglev systems?

ANSWER: First, a distinction needs to be made between low frequency, time varying electromagnetic fields such as are produced by electrical transmission lines, and static magnetic fields produced by d.c. magnets such as are used on maglev vehicles. There is some preliminary evidence that the former fields can have adverse health effects on animals. There is no evidence that a low level static magnetic field, which is what maglev passengers will be exposed to, has any deleterious biological effects. On the other hand, research in the latter area is not extensive, and certainly needs to be augmented to make sure that adverse effects have not been overlooked. This is a high priority item in our planning process. We have met with the Environmental Protection Agency (EPA) and the Department of Energy (Argonne National Laboratory) to develop a work plan to address the maglev health issue in a comprehensive manner.

SENATOR LAUTENBERG: What is the amount of funds requested by FRA to research this issue next year? What specific projects will be conducted?

ANSWER: Prior to our discussions with EPA and Argonne, we had estimated a funding requirement of $250,000 in each of the next two years. It now appears that may have been a bit on the low side and we will need to adjust our funding allocation to this subject. We plan to have EPA conduct a maglev magnetic field characterization study which will feed into a biological effects study to be done by Argonne National Laboratory.

SENATOR LAUTENBERG: What else needs to be done to address this potential health problem? How many years of research will it take before we know that current and advanced maglev systems are safe from the effects of these fields?

ANSWER: Upon completion of the proposed research on magnetic fields associated with maglev systems, we will have levels these systems produce. That research should be completed in FY 1992.

SENATOR LAUTENBERG: To your knowledge, have either the Japanese or Germans looked at this concern?

ANSWER: Yes, we have obtained some literature to this effect, including one German report evaluating the safety of a pacemaker in the Transrapid environment, which reported no ill effects. The Japanese have indicated the belief that levels on their system are acceptable for revenue service.

SENATOR LAUTENBERG: Please detail FRA's assessment of the scope and nature of the electromagnetic force problem and risks for each of the different types of maglev systems.

ANSWER: In view of recent concerns over high power transmission lines and recent literature in the research community, it is readily apparent that relatively little is known about the whole subject of magnetic fields and any related health effects. With respect to maglev and its associate magnetic fields, we believed that systems can be designed which limit levels to those routinely found in the industrialized world. The d.c. magnetic field problem seems, at this early state of investigation, to affect the electrodynamic maglev more so than the electromagnetic systems because the source fields are much higher in the former. In either case, engineering solutions for mitigating the adverse field effects are considered achievable and a subject of our overall study.

SENATOR LAUTENBERG: Please delineate the size and duration of the concerted research effort that would be needed to address this problem properly.

ANSWER: A two-year study is planned to assess the field levels associated with this technology. If the levels are found to be unacceptable, trade-off studies would identify options for correcting the problem. The scope of this work cannot be defined until the assessment study results are at hand.

SENATOR LAUTENBERG: What type of shielding might be required and how would such shielding of the magnetic and electrical systems affect maglev systems design and the benefits of maglev? What about reconfiguring the magnetic systems? What about exposure to populations along maglev right of ways?

ANSWER: The answers to these questions depend on the results of the assessment study and any trade-off studies that might be conducted in response to findings of the assessment study.

DRUG TESTING

SENATOR LAUTENBERG: At this time last year, your agency had published its regulations regarding drug testing of railroad employees and you were in court over the implementation of your random drug testing requirements.

What is the current status of your drug testing program?

ANSWER: FRA has required post-accident and pre-employment drug testing since 1986, and railroads have been authorized to conduct reasonable cause testing programs, as well. Mandated testing pre-employment and post-accident testing continues in the rail industry. The major railroads all conduct some form of for-cause testing, either under the FRA reasonable cause rule, separate management programs, or negotiated testing agreements.

Amtrak, Class I railroads and the commuter authorities began random drug testing on or shortly after January 16, 1990. FRA is currently reviewing Class II railroads' random drug testing programs. Class II railroads begin random testing on July 2, 1990; and Class III railroads begin November 1, 1990.

Litigation over the random drug testing rule continues. A panel of the U.S. Court of Appeals for the Ninth Circuit heard arguments on the case, Railway Labor Executives' Association v. Skinner (II), on April 20, 1990. The district court had upheld the regulations, and the Ninth Circuit denied plaintiffs' motion for stay pending appeal in January.

SENATOR LAUTENBERG: In last year's testimony, you noted that the percentage of rail employees testing positive after accidents for drugs actually increased between 1987 and 1988 from 5.1% to 5.6%

What percentage did you find for post-accident testing in 1989?

ANSWER: In 1989, the positive rate for prohibited drug use was 3.0%. We believe that this is indicative of progress in changing the attitudes of employees in the rail industry.

SENATOR LAUTENBERG: Do you feel that the post-accident drug testing program has been effective in enhancing rail safety? What hopes do you have for the random drug testing program?

ANSWER: The mandatory post-accident testing program has played a significant role in raising the visibility of alcohol and drugs as a significant safety problem. These test results have provided the impetus for other actions, contributed to our understanding of accident causation, and assisted in identifying employees who pose an unacceptable safety risk. This program remains an important bottom-line measurement of the effectiveness of other countermeasures.

We believe random drug testing can provide the strongest possible deterrent against non-medical use of controlled substances and would expect to see continuing declines in other indicators as the program takes hold. I note as a caution, however, that we may see some ups and downs in the positive rate as the initial psychological effect of program implementation wears off, the testing rate rises to the target level (tests equaling 50% of covered population), and a consistent deterrent effect is established.

SENATOR LAUTENBERG: Does FRA currently execute a program for alcohol use? Is this done just in post-accident situations, or on a random basis, as in the case of drug testing?

ANSWER: Mandatory post-accident testing includes analysis of blood for alcohol as an important element. In addition, FRA authorizes breath alcohol testing, using evidential quality testing devices, for reasonable cause.

Alcohol is not currently included in the random testing program for a variety of reasons, including the unsuitability of a single urine specimen for alcohol, the shorter window of detection associated with alcohol, and the effectiveness of other measures in addressing the alcohol problem.

The Department of Transportation has under consideration comments in response to an advance notice of proposed rulemaking on the issue of alcohol abuse prevention. Additional rulemaking may be explored if warranted by the comments or compliance monitoring.

SENATOR LAUTENBERG: Does the need to monitor the implementation of your random drug testing requirements place an additional workload on your inspection staff? In your view, how severely does it hamper the staff's other inspection efforts?

ANSWER: Monitoring compliance with random drug testing requirements is in a very early phase. However, we do anticipate additional activity. As was the case of other alcohol/drug regulations, the random drug testing rules are likely to produce a complaint workload and will obviously require routine monitoring. This monitoring will not significantly hamper other inspection activity. These factors have been considered in assembling the current budget request, but our estimates of resources required may be subject to further refinement as experience is gained over the next several years.

SENATOR LAUTENBERG: What percentage of the relevant railroad employees do you expect to test on a random basis this year and next year?

ANSWER: Amtrak, Class I freight railroads, and commuter railroads employ more than 85% of railroad employees. In the first 12 months of implementation (through mid-January 1991), they will conduct tests equal in number to approximately 25% of the covered employees that they employ. The rate for the second 12-month period is at least 50%. Similar patterns will apply to Class II and III railroads, which are starting in July and November of this year, respectively.

Note that, because of the nature of random selection, some employees will be chosen more than once and some not at all during any testing year.

ENVIRONMENTAL CLEAN-UP COSTS AT FRA TESTING SITE

SENATOR LAUTENBERG: Your budget request includes $1.5 million for clean-up of the waste water lagoon at your testing site in Pueblo, Colorado. That testing site was acquired by the AAR from the FRA some years ago, but I understand that most of the environmental problems predate AAR's assumption of the facility. Will this $1.5 million be adequate to clean up this waste water problem?

ANSWER: On the basis of the estimate developed in connection with the closure plan prepared for the AAR by its contractor and submitted to the Colorado Department of Health (CDOH), the $1.5 million was assumed to be adequate not only for the waste water lagoon problem, but also to begin addressing the other environmental problems at the Transportation Test Center (TTC). Since we have now received the CDOH decision on the closure plan, the final cost of compliance is in question. Among other things, the State is requiring additional exploratory work to better define the extent of contamination. Several more test holes will have to be drilled and additional laboratory tests conducted on the soil and water recovered from those test holes to better define the geology of the region and the extent of migration of contaminants. A better estimate will be available once we evaluate their requirements in more detail.

SENATOR LAUTENBERG: Your budget states that there are several other sites and environmental problems that require clean-up at the Pueblo facility to be in compliance with environmental laws. We understand that there may be PCBs and mercury-containing electrical equipment that must be disposed of, and underground tanks that must be monitored. What kind of funding requirements are we looking at in future years to satisfy the regulatory clean-up demands of the State of Colorado?

ANSWER: The funding profile for the environmental cleanup of all of the facilities at the Transportation Test Center (TTC) is estimated to be $1.5 million in FY 1991, $500,000 in FY 1992, and $250,000 in FY 1993. These estimates represent FRA's share of the clean-up costs and were based on what we believed would be, required based on the closure plan developed by the AAR's contractor and submitted to the Colorado Department of Health (CDOH). The major elements of cost associated with the environmental compliance are the waste water lagoon and several other sites where contaminated materials were known to have been dumped. The ultimate clean-up costs depend heavily on the final closure requirements of the CDOH.

SENATOR LAUTENBERG: How will FRA's contribution to the clean-up costs compare to that of the AAR?

ANSWER: FRA and AAR are negotiating their relative share of clean-up costs based upon their relative levels of responsibility for existing or potential contamination. A detailed comparison between contributions expected from each party would be premature at this time, and could improperly influence the negotiation procedure.

SENATOR LAUTENBERG: How is it determined what FRA will contribute versus what AAR will have to pay?

ANSWER: The relative apportionment of cost for environmental remediation will be based upon the results of quantitative, qualitative and historical analyses of each problem area, and the resulting indications of relative levels of responsibility accruing to each party. FRA is the designated owner of the facility, and managed it from its construction until September 30, 1982. AAR commenced the operation of the facility on October 1, 1982 under a care, custody and control agreement. Some of the environmental problems are associated with devices acceptable at the time of their installation by FRA, such as PCB-filled electrical transformers, but which were later determined to present health risks when encountered in certain situations. Other facilities, such as the waste water lagoon, were instituted under FRA management, but the addition of contaminants continued after AAR assumed operational control of the Test Center.

SENATOR LAUTENBERG: Why has it taken so long to negotiate with the State of Colorado on the necessary steps that FRA must take to come into compliance with the state and Federal environmental laws?

ANSWER: The preparation of a closure plan addressing a hazardous waste disposal area is a complex, time consuming process. The AAR contractor, Morrison-Knudsen Engineers, Inc., completed the exploratory drilling and engineering work in the development of the plan and the AAR submitted the plan as required. A public hearing was held on the adequacy of that plan. The CDOH has carefully reviewed the closure plan and the comments received during the hearing process and on April 2, 1990 informed the AAR of their decision. A number of questions have been raised on the initial closure plan and additional engineering work, including several more test holes, will be required. This process of plan development, state review and plan modification is a time consuming but necessary process to assure that environmentally sound decisions are reached. The AAR and FRA have been cooperating with the CDOH to resolve any differences in achieving compliance.

ONGOING PROBLEMS WITH HIRING OF INSPECTORS

SENATOR LAUTENBERG: There has been a continuing problem in FRA with the high vacancy rate in enforcement positions and the slow pace with which new enforcement positions are filled. In the past, FRA has not requested adequate funding to finance all of its authorized positions, and it has assumed that new enforcement positions will be filled quite slowly. How many enforcement positions are currently filled? What is the current vacancy rate? What is your expectation for filling the vacant positions as well as the new positions this fiscal year?

ANSWER: As of May 1, 1990, we have 322 inspectors and supervisors on-board and expect ten new hires to report within the next few weeks. We currently have 29 of the 34 new positions vacant but expect to have all our authorized level of 361 professional safety inspection personnel on-board by June 30, 1990. We will fill in behind subsequent vacancies caused by attrition as quickly as possible and remain as close as possible to an on-board strength of 361 throughout the remainder of FY 1990 and through FY 1991.

SENATOR LAUTENBERG: I'm pleased to see your improved effort at filling the vacancies, however, I note that a large segment of your inspection force--over 42 percent--is at or over the age of 55. You will continue to have a steady stream of retirees over the next couple of years. Do you have a plan in place to replace these retirees' positions as soon as they become vacant?

ANSWER: Yes. We will fill in behind subsequent vacancies caused by attrition as quickly as possible and remain as close as possible to an on-board strength of 361 throughout the remainder of FY 1990 and FY 1991. In addition, we plan to initiate a new training program in FY 1991 that could become a major source of our future hires in two to three years.

SENATOR LAUTENBERG: I see that you are requesting 12 additional positions for inspector trainees. Have you requested sufficient funding to fill those trainee positions right away?

ANSWER: Yes. We have requested $612,000 for the full-year cost of the 12 trainees. The average cost of $51,000 per trainee would cover salaries and expenses, including an extensive training program of formal instruction and on-the-job assignments.

CHARGING STATES AND PRIVATE INDUSTRY FOR TRAINING OF INSPECTORS

SENATOR LAUTENBERG: As part of the railroad safety account, FRA is requesting appropriations language that will allow funds received from non-Federal sources for expenses incurred in training safety employees from private industry, state, and local authorities to be credited to your overall railroad safety fund. FRA currently trains all the state inspectors at no cost to the states, is that correct? Is it your intention to begin charging the states for the training of inspectors and using those funds to enhance the railroad safety account? Has FRA made any past commitment to provide training to state inspectors at no cost?

ANSWER: That is correct. FRA provides free training and travel costs to state inspectors. It is FRA's intention to continue to fund state inspectors classroom training. Participating states are fully aware of FRA's commitment to fund this training. FRA has continued throughout the years of the state participation program to assist the states in certifying their inspectors and provide on-the-job and formal classroom training. To that extent, FRA currently pays 100 percent of all state inspector training costs for formal classroom training.

If FRA charges a fee for training, it will not be for the state inspectors but for other state and local government employees, as well as industry employees, whose organizations request such training. When the state participation program's Federal funding was terminated, FRA stated that its policy was to continue training state inspectors in FRA's safety regulations at no cost.

FEDERAL ASSISTANCE FOR STATE RAIL INSPECTIONS

SENATOR LAUTENBERG: The Subcommittee understands that several States are being sued by rail carriers regarding the imposition of fees designed to raise funds to pay for State rail safety enforcement efforts. If the courts disallow such funds, will the now discontinued Federal safety grant program to States need to be reinstated?

ANSWER: The means employed by the States to finance their regulatory programs is entirely the choice of each State. Given current Federal budget constraints, Federal support of the state programs is unlikely.

TRAINING OF RAIL INSPECTORS

SENATOR LAUTENBERG: In the last few years there has been substantial turnover in the FRA field staff and a substantial increase in the number of new inspectors. How does the FY 1991 budget provide for the need for substantial training of the recently hired inspectors and for updating on the new regulatory requirements for the more experienced field inspectors?

ANSWER: Massive regulatory changes to implement the new authority granted to FRA in the RSIA has made training of every inspector among our highest priorities. A Director of Communications and Training will be hired to refocus our training and ensure that it receives the appropriate priority. Additionally, five field Training Specialists (one in each inspection discipline) will be hired to assist the Director. Our enforcement manuals are being revised to reflect the regulatory changes brought about by the implementation of the RSIA, alcohol and drug rules, and other initiatives. We will continue the regulatory review conferences in FY 1991 to update recently hired and experienced inspectors on the new regulatory requirements. Three regional conferences will be held this fiscal year and at least three will be held in FY 1991.

SENATOR LAUTENBERG: Is FRA able to meet the training needs of the various State rail inspectors certified by FRA that request training from the FRA? Does FRA pay the associated travel costs of these State inspectors? If so, what is the cost of these training sessions?

ANSWER: FRA is currently developing a major training program for certified Federal and state rail inspectors and trainees. This training program will greatly enhance the inspectors skills in enforcing all the pertinent rail safety regulations. As in the past, FRA will continue to fund 100 percent of the associated travel costs of state inspectors attending formal classroom training. In the past 5 years, from FY 1985 to FY 1989, FRA has funded a total of $55,661 for state training, or an average of $11,132 per year, at DOT's Transportation Safety Institute (TSI) in Oklahoma City, Oklahoma. In FY 1990, FRA has invited all the participating state rail safety inspectors, at FRA expense (estimated at $80,600), to one of the three FRA Regional Rail Safety Training Conferences in April and May 1990. FRA funding for state training is expected to increase in future years once the new training program is developed and fully implemented.

INSPECTOR TRAINEES

SENATOR LAUTENBERG: Please describe the costs and benefits of FRA's proposed trainee program.

ANSWER: The proposed trainee program is estimated to cost $612,000 in FY 1991 for 12 trainees. It is a three-year program and the costs in the following two fiscal years are expected to remain about the same. While training costs will decrease in FY 1992 and FY 1993, salaries will increase.

The benefits of the training program cannot be readily quantified. It is expected that FRA will benefit in the following ways: (1) an established trainee program would give us a known and predictable source of inspector resources where we have encountered hiring problems in the past; (2) it could help us to increase the number of female and minority inspectors; and (3) the skills of the trainees will complement the experience of the current inspectors, most of whom have been drawn from the industry.

SENATOR LAUTENBERG: Please describe the results of previous FRA trainee programs.

ANSWER: Previous trainee programs, while not as formal on a national basis as the one being proposed at this time, were moderately successful. Both the agency and employees benefited from the program and safety was well served by it. We were able to increase the number of women and minority inspectors, and morale at the agency was improved because we were able to give deserving individuals an opportunity to expand their job opportunities. Additionally, we were able to fill positions which we had experienced difficulty in filling.

SENATOR LAUTENBERG: How many people entered these previous trainee programs and how many are still working in FRA's safety program?

ANSWER: Twelve persons entered the previous FRA trainee program and eight are still working as inspectors in FRA's safety program and one is working at FRA headquarters.

SENATOR LAUTENBERG: What are the pros and cons of simply hiring experienced rail labor personnel, as is done now for FRA's inspector positions, and training several of these applicants in new technical areas as intended for the proposed trainees?

ANSWER: Some of the pros of hiring experienced personnel are: (1) training time would probably be shorter and less costly; (2) the time required to become a productive inspector would be less; and (3) acceptance among the ranks of the current inspector workforce would be greater because of the preponderance of inspectors with rail backgrounds. Some of the cons of hiring experienced personnel are: (1) it would be extremely difficult to hire individuals with the backgrounds needed for the required technical training; (2) the pool of potential hires would remain the same; (3) we would not be able to increase the number of women and minorities in large enough numbers to achieve the diverse inspector staff we are striving for; and (4) the opportunities for advancement would not be as great which impacts on our ability to retain new hires.

SENATOR LAUTENBERG: Please provide detailed financial analyses on the benefits and costs, including training, associated with FRA's request for 12 trainees.

ANSWER: In FY 1991, we are requesting $612,000 for 12 trainees, an average of $51,000 per trainee. The $51,000 per trainee would cover salaries and expenses as follows:

$17,600	Salary (GS-5: $16,300 or GS-7: $20,195)
5,000	Benefits (FERS, Health, Life Insurance)
8,400	Travel and Per Diem
2,600	GSA Rent
4,000	Working Capital Fund
11,000	Training Expenses
2,400	Supplies, Equipment, etc.

$51,000	

RESEARCH AND DEVELOPMENT

SENATOR LAUTENBERG: Your budget states that during 1991 you expect the non-Federal share of total research costs within the research and development program to be roughly 25 percent. Who do you expect to contribute toward this 25 percent?

ANSWER: Most of the contributing entities are in the railroad industry, such as the Association of American Railroad, American Short Line Railroad Association, the Railway Progress Institute, and individual railroads. In addition, some research programs are jointly funded with another government agency such as the Department of Energy, the National Institute of Standards and Technology, and NASA.

SENATOR LAUTENBERG: For what kinds of research?

ANSWER: The research supported is usually in the area of test and analysis where joint programs are initiated with industry. For these joint programs, the industry provides "in-kind" services such as donated equipment and facilities usage, labor, test instrumentation, data analysis, consultation from recognized experts, and transportation of equipment to the test sites.

Some research projects are jointly funded with industry as in the NUCARS program, an analysis computer program used to evaluate the safety of new vehicle designs, and the Research and Locomotive Evaluator/Simulator.

Interagency programs provide labor support and/or funding for part of the overall cost of the program.

SENATOR LAUTENBERG: How does that percentage compare to previous years, and why don't you display the non-Federal share of this program in your budget documents?

ANSWER: For the past five fiscal years, the non-Federal share has been steadily increasing. In FY 1986, the non-Federal share was 13 percent for Equipment, Operations, and Hazardous Materials Safety Research Program. The non-Federal share is namely in dollars, with most of it being in-kind services and use of equipment. If we did not get those services, our budget would have to be larger to pay for it. The specific amounts are difficult to split out on a budget line item basis, but have been estimated for the aggregated program level in our annual budget submissions.

STRESS AND FATIGUE OF LOCOMOTIVE ENGINEERS

SENATOR LAUTENBERG: You have stated that, in 1989, you expected to begin a study on the stress and fatigue aspects that the locomotive engineer is exposed to and how that might relate to loss of functional capacity.

I understand that the Hours of Service Act greatly limits FRA's authority to regulate in this area. Do you believe that FRA should be allowed greater flexibility to regulate the hours and conditions of service allowed our locomotive engineers? Have you proposed any additional regulations or legislation in this area?

ANSWER: Yes, I do believe FRA needs authority to regulate the hours of service of all rail employees engaged in safety-sensitive work. Repeal of the Hours of Service Act and its immediate replacement by well designed regulations would be a constructive change. Although the Act does set minimum on-duty and off-duty periods, many related issues remain unaddressed, despite rising concern about the effects of irregular work schedules on the ability of employees to perform their jobs safely.

Although the Federal Railroad Safety Act of 1970 provides comprehensive statutory authority needed to mount an effective Federal rail safety program, the existence of the Hours of Service Act effectively blocks FRA from addressing these issues through rulemaking. That is, the Hours of Service Act provides FRA no rulemaking authority over working hours or off-duty periods, and the specific requirements it does contain implicitly preclude FRA from using its otherwise complete regulatory authority to address those subjects. Unlike the Federal Aviation Administration and the Federal Highway Administration, FRA cannot regulate in this area despite increasing scientific knowledge and the ever changing nature of railroad operations.

FRA'S MONITORING OF RAILROAD OPERATING RULES, PLANS, AND PROGRAMS

SENATOR LAUTENBERG: The Department of Transportation Office of Inspector General recently concluded an audit on FRA's monitoring of railroad operating rules, plans, and programs. The audit revealed that FRA had not established effective procedures to ensure that the railroads were filing their codes of operating rules, programs of operational tests and inspections, programs of instruction, and the related annual reports mandated by FRA regulations. The review showed that 19 percent of the railroads in 1988 had not filed their codes of operating rules, 35 percent had not filed the required program of operational tests and inspections, and 35 percent had not filed their program of instruction. The Inspector General's report laid out a series of recommendations for FRA to rectify this situation.

- Please acquaint us with their recommendations, and what actions you have taken to address the IG's recommendations.
- The report noted that you intended to take the actions proposed by the IG, and that corrective actions were targeted for completion by January 1990. It is now April. Have all corrective actions been taken?

ANSWER: The IG recommended that the FRA:

- Establish procedures to effectively monitor and enforce the document filing requirements of 49 CFR 217. As a minimum:

   a. develop and maintain a data base of current and complete information on all active railroads in the industry subject to the requirement of 49 CFR 217, and
   b. enforce compliance by these railroads with the regulatory filing requirements, including assessing penalties based on the Schedule of Civil Penalties in Appendix A to 49 CFR 217.
2. Include the internal control weaknesses discussed in this report when preparing the next FMFIA Report to the Secretary.
3. Incorporate the changes resulting from Recommendation 1 as part of future FMFIA evaluations of the operating rules program. FRA agreed that the problem would be promptly corrected.

FRA is closely monitoring 49 CFR 217 filings, and using available enforcement tools, including civil penalties where appropriate, to encourage compliance. The FRA Office of Safety is continuing the lengthy process of developing a data base of current and complete information on all active railroads in the industry subject to the requirements of 49 CFR 217. The data base format has been established and railroad information is being inputted. Although the problems identified in the report did not have a serious impact on rail safety, the internal control weaknesses are included in the FMFIA Report to the Secretary, and future FMFIA evaluations will incorporate improvements made in the enforcement of 49 CFR 217 requirements. FRA is meeting with groups of small railroads throughout the country to explain FRA's rules and offer guidance in establishing adequate safety programs. Finally, we have initiated a safety inquiry to address all railroad safety reporting requirements.

We anticipate having all corrective action completed by the end of FY 1991.

AAR TANK CAR COMMITTEE

SENATOR LAUTENBERG: What actions has FRA taken to address the recommendations and findings presented in the report recently submitted to Congress on the delegated authority to the AAR tank car committee?

ANSWER: The major points, and reasons for our recommendations are outlined below along with the actions FRA has taken:

1. The Department should continue, on a provisional basis, both the policy formulation and regulatory implementation delegations to the Association of American Railroads Tank Car Committee.
   o We favor continuing to use the Tank Car Committee (TTC). The use of the TCC substantially increases the in-house expertise of the regulatory agencies and has the practical effect of establishing

an administrative mechanism for implementing tank car regulations at no cost to the Government.

2. When the TCC is acting within the scope of these delegations, the Department of Transportation must have access to every meeting or other proceeding conducted and every file document maintained.
   - o Whenever a Government agency delegates authority to any private entity, it is incumbent on that agency to maintain a constant, close oversight of the delegatee's performance. A delegation of authority is not a delegation of the agency's responsibility to ensure that the functions delegated are administered in the manner consistent with the public interest.
   - o We identified approximately six cases in which the Committee violated either its own procedural standards or DOT substantive regulations in granting approval for construction or modification.
3. The Tank Car Committee must overhaul its record keeping system to ensure that Committee files contain the information necessary for the proper functioning of an agency which depends upon precedent.
   - o In more than 100 references in the regulations, the TCC has been delegated authority to "approve" methods of designs, materials, valves and similar matters. Unfortunately, the Committee maintains no files on the actions taken pursuant to these sections.
   - o The Committee has poor recordkeeping and less than rigorous adherence to its own procedural requirements.
   - o FRA analyzed the errors it found and we reached the conclusion that they stemmed more from human judgments than from any factor inherent in the structure of the Committee.
4. The minimum number of votes required for approval of an application must be raised to a level which assures broad participation by shipper and carrier members.
   - o We are concerned by the fact that the Committee's quorum level, fifty percent plus one member, is so low that applications can be approved without the participation of nearly half of the membership of the Committee.
   - o FRA believes that the privilege of serving on the TCC carries with it a responsibility to participate on Committee deliberations.

5. The TCC shop certification program needs reassessment and substantial overhaul.
   - o We question whether the shop certification program is sufficiently stringent to ensure that facilities, once approved, remain in compliance throughout the five-year certification period. Surprise inspections are rare and there appears to be no pattern of follow-up inspections on facilities found in non-compliance.
   - o The Committee should reassess the adequacy of its monitoring program and present the Department with a proposal, to be incorporated into the regulations or agreements between the DOT and TCC.
   - o We found a series of procedural irregularities and some lesser substantive irregularities on the Tank Car Committee's oversight of AAR certified shops for the construction and repair of tank cars.
6. The TCC should develop a program of periodic data review designed to spot evolving problem trends before they reach crisis stage.
   - o The TCC collects a significant amount of data in performing its delegated functions. Certificate of Construction and repair forms complement collection by the AAR of car repair billing records, DOT 5800.1 incident forms as part of the Tank Car Safety Test and Research Project. On-going analyses of these data could spot trends and alert both the industry and the DOT before a problem reached the crisis stage.
7. The previous recommendations should be implemented now, whether through regulatory action, a written agreement between DOT and the Committee, or a combination of the two.

The AAR responded to these recommendations on April 4, 1990, enumerating recent improvements in their procedures and supplying criticisms of the report. FRA is currently reviewing the AAR comments and a meeting between the FRA, RSPA and AAR is scheduled in the near future.

USE OF IITRI FACILITY

SENATOR LAUTENBERG: For many years FRA's research and development funds were used to help design, construct and operate an advanced, full-function locomotive simulator at IITRI. What was the total sum of FRA funds invested in this facility?

ANSWER: From 1979 into 1984, FRA spent approximately $10 million on the design and construction of the Research and Locomotive Evaluator/Simulator. IITRI has invested an estimated $400 to $500 thousand, primarily in systems integration and software development.

SENATOR LAUTENBERG: Does the FRA pay an hourly operating fee when Federally-funded projects are conducted at this facility? If so, please explain why in view of the substantial initial Federal investment?

ANSWER: An hourly users fee is paid by all who use the RALES facility, including Federal agencies. This fee is designed to cover operation and maintenance costs and has remained at $250 per hour since operations began in early 1984. These are current and ongoing costs which have nothing to do with the sunk capital cost of design and construction. If FRA were to pay no users fee, these costs would have to be paid by other users of the facility, which amounts to a cross subsidy from the private sector that would be inappropriate. FRA continues to own the facility and receive the benefits of this investment through its use for research. In addition, a safety dividend is realized in the form of improved train handling by engineers trained on RALES or spin off simulators acquired by various railroads.

SENATOR LAUTENBERG: How does FRA's hourly fee payment compare to fees assessed against other users?

ANSWER: All users pay the same fee which is currently $250 per hour.

SENATOR LAUTENBERG: Does FRA intend to negotiate a better, less-costly arrangement with IITRI? How could this be accomplished and when?

ANSWER: The current contract with IITRI ends in early 1994 and must be renegotiated prior to that time. Potential changes, including the approach currently used for users fees, have not been developed yet. FRA's position on this and other issues will be determined prior to initiating new negotiations which should start at the beginning of 1993.

GRADE CROSSING ISSUES

SENATOR LAUTENBERG: What progress can you report to us on your efforts to minimize grade crossing accidents and fatalities?

ANSWER: Unfortunately, recent bottom line progress is not demonstrable. Accident figures for 1989 were lower than for 1988 (- 2.2 percent), but casualties, and especially fatalities (+ 14.6 percent), increased. Though we are holding the line on accidents in the face of increasing highway and railroad traffic, accidents are becoming more severe. Currently, one tenth of all crossing accidents result in one or more fatalities. This ratio has increased by 25 percent since 1987. Our sense of urgency has been reinforced. Solutions must be found.

FRA has continued to be active in, and to support, a variety of crossing related activities, from

Operation Lifesaver to research. Some 1989 and 1990 activities, underway, done, or planned include:

In FY 1989, the FRA made a $150,000 grant to Operation Lifesaver, Inc. (OL, Inc.) which is being used to develop, produce, and distribute much-needed Operation Lifesaver promotional and instructional materials. This grant was made from FRA's Research and Development funds. Grants of $100,000 are budgeted for FY 1990 and for FY 1991.

The FRA spent $7,400 for Operation Lifesaver (OL) audio visual materials (films, videotapes and slide-tape shows) which promote highway-rail crossing safety and trespasser prevention. These materials are used by FRA personnel when making presentations in schools, local assemblies, clubs, etc.

Field personnel continue to assist by participating in local speakers' bureaus and by setting up and staffing displays and arranging meetings between industry and local officials. FRA's safety field staff continues to make approximately 600 contacts and presentations for Operation Lifesaver annually and reach directly about 100,000 individuals.

FRA participated in the planning and promotion of the 1989 National Highway-Railroad Conference in San Diego last July. FRA is currently involved in the planning for a 1990 National OL Symposium which will be held in Coeur d'Alene, Idaho, in July.

A portion of FRA's information processing budget (over $240,000 per year) is expended in support of the U.S. DOT/AAR National Rail-Highway Crossing Inventory and the crossing accident module of the Railroad Accident/Incident Reporting System. Processing includes data collection and control, retention and report production.

A contracted effort to review the efficacy of Texas' 1-800 number call-in procedure was completed in FY 1989. In this program, callers report observed problems (e.g., apparent warning device malfunctions) at highway-rail crossings to public safety authorities. A report has been prepared and distributed promoting wider adoption of the Texas system. In FY 1990, the FRA will contract for an analysis of calls received, the timing and findings of follow-up, and their cumulative potential for predicting accident locations.

Section 159 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 directed the DOT "to conduct a study of these needs (national highway-railroad crossing improvement and maintenance needs and how these crossing needs can be addressed in a cost-effective manner) and report to the Congress by April 1989, on the results and recommendations." A report was sent to the Congress in April 1989. In FY 1990, we will address small railroads vis-a-vis crossing safety programs and a review of accident investigation procedures.

FY 1990 research will reexamine potential effectiveness and cost issues related to the possibility of placing retro-reflective materials on the sides of railroad rolling stock in order to alert night time motor vehicle drivers to the presence of a train at a highway-rail crossing. This possibility was last examined in 1981, but the finding was that the costs of maintenance (cleaning and periodic replacement) far outweighed the potential benefits. Claims regarding new retro-reflective materials stress brighter reflectivity (higher effectiveness) and lower cleaning costs (surfaces less prone to dirt accumulation).

In FY 1990, FRA will also participate in funding demonstrations of low cost passive devices (signs and reflectors) for use at rural highway-rail crossings.

In FY 1991, FRA will investigate some innovative augmentation to existing warning devices, e.g., audible devices for crossings currently equipped with only passive signs, and/or flood lighting for crossings equipped with automatic warning devices.

SENATOR LAUTENBERG: What has FRA done to respond to the conclusions of the National Needs study on rail-highway crossings?

ANSWER: The recommendations of the Rail-Highway Crossings Study address six general topics. I will address each in turn. However, in addition to the specific actions described below, the DOT is preparing proposed legislation (the Highway Safety Act of 1991) which will also deal with some of these topics, but in a broader sense. FRA staff has been working with FHWA.

Warning Devices: Maintenance and Upgrading: The FRA has initiated regulatory action (an Advanced Notice of Proposed Rule Making was issued and hearings have been held) regarding the need for Federal inspection and maintenance standards. FRA expects to issue a Notice of Proposed Rulemaking in this area shortly. An extensive random field survey of warning devices to ascertain the status of their condition and maintenance has been conducted by FRA's signal and train control inspectors and data is currently being tabulated. The FRA has assisted the Association of American Railroads (AAR) in producing and distributing a list of highway-rail crossings which lack minimum signing according to FHWA standards. The list was produced from the U.S. DOT/AAR National Rail-Highway Crossing Inventory, and appropriate portions have been sent by the AAR to all listed railroads. As opportunities allow, the FRA encourages states and railroads to consider upgrading currently installed warning devices to state-of-the-art equipment, particularly to include constant warning time circuitry. FRA's assessment of the Texas 1-800 Call-In Program (essentially, a procedure which involves the public in providing early warnings to railroads regarding perceived problems at highway-rail crossings) has resulted in the FRA actively promoting the concept. The report has been widely distributed, and FRA staff members have made multiple presentations to state and industry officials regarding the system's potential.

Project Selection: Decisions to equip or upgrade crossings with automated warning devices are made by state highway officials and are predicated on current and projected traffic, accident history, on-site engineering assessments and budget limitations. Computer models which can aid railroad and state program managers in project selection through accident and severity predictions and resource allocation (benefit/cost) algorithms have been made available by the DOT. Though their use is optional, accident prediction listings and rankings are frequently requested from the FRA. In order to encourage consideration of severity potential, FRA responds to such requests with both accident prediction and fatal accident prediction materials.

Structural Needs: Highway bridges over railroads, railroad bridges over highways and "orphan" bridges pose issues which are currently under active discussion within the Department. The Bridge Program, currently funded from the Highway Trust Fund, makes highway bridges over railroads eligible for Federal rehabilitation funds. An FRA recommendation to extend this provision to railroad bridges over highways is currently being considered.

Other Site Needs: The FRA uses all opportunities to remind concerned and responsible parties of the vital implications of highway-rail crossing safety needs. Such needs might include crossing surface maintenance or improvement, brush clearance for the railroad and highway rights-of-way, operating changes to better accommodate traffic flow, etc. FRA has encouraged states and railroads to seek low cost improvements which might enhance safety at crossings which will not likely meet criteria for more sophisticated automated devices (e.g., crossing closure, street lights, approach realignments, etc.). FRA was a major participant in an FHWA demonstration project which promoted low cost improvements along rail corridors. FRA will continue to participate in such programs and promotions.

Public Education and Information: The FRA promotes, partially funds and participates in Operation Lifesaver (OL). The goal of OL is to improve crossing safety through public education, law enforcement and engineering improvements, the

3E approach. The FHWA has been offering a training program for state and railroad officials dealing with the full range of topics attributable to the nomination, selection and completion of highway-rail crossing improvement projects. The FRA was involved in the course's development and has since been active in promoting it. In the coming year, FRA will review this course's potential for meeting the needs of small railroads vis-a-vis crossing safety and projects. (FRA will also review the training needs of small railroads regarding other railroad safety disciplines regulated by the FRA.) As a result of the recent (April 1-3) Department of Transportation sponsored Traffic Safety Summit, the FRA is exploring the possibility of contracting for, or providing a grant for, the development of a video taped training program (in 25 minute segments) for law enforcement officers. Under consideration is use of a commercial satellite television station (LETN) which is subscribed to by more than 1,600 law enforcement agencies across the country. Interest among law enforcement officials is supportive.

Research and Development: As noted above, FRA has recently developed and continues to promulgate an assessment of the Texas 1-800 Call-In Program, and has contracted for some follow-up research on the timeliness of calls and findings and responses. As noted above, FRA will also be looking at the efficacy of reflectors on freight cars and at some innovative warning device enhancements, e.g., mast mounted reflectors, roadside delineators, flood lights, audible devices, etc.

SENATOR LAUTENBERG: How does your FY 1991 budget request respond to the recommendations and conclusions of this study?

ANSWER: FRA's FY 1991 budget request will provide funds necessary to continue the programs and activities outlined above. Specifically, our request will provide for some support to Operation Lifesaver, Inc., continuation of information processing of crossing related data within FRA, training and promotional efforts and research and development.

SENATOR LAUTENBERG: What is FRA's assessment of the effectiveness of Operation Lifesaver?

ANSWER: Operation Lifesaver addresses two major weaknesses in pre-existing highway-rail crossing safety programs. First, and most obviously, in accordance with its stated goals, it focuses on public education and law enforcement. Given that over half of all highway-rail crossing accidents are occurring at one-third of all crossings which are equipped with automatic warning devices (flashing lights or flashing lights with gates), an education and enforcement deficiency is apparent. Put succinctly, we should not continue to install (expensive) automatic warning devices, if we don't tell the public what they mean, and then enforce the message. Second, Operation Lifesaver, and especially Operation Lifesaver, Incorporated's (OLI's) National Support Center and Executive Director, provide a national focal point and coordinating mechanism for the many and varied state and railroad programs. OLI is bringing a needed measure of standardization, as well as a means of communication and coordination to and amongst the many program advocates. National emphasis programs, sharing of lessons learned and of schedules, bulk buying, collective endeavors beyond the means of local programs (e.g., making a movie), as well as the benefits of recognition as a national program (when approaching large corporations, state and Federal agencies, the Congress, etc.), have all been realized by OLI. Objective measures of OLI's contribution to improvements in crossing safety (i.e., accidents and casualties avoided) are not available, however, their distribution of materials and national "presence" over the last year have been prodigious, pervasive, and impressive. Our assessment is that OLI has been effective.

SENATOR LAUTENBERG: Reportedly, FRA inspectors have recently not been achieving your internal goal of spending four days a year on Operation Lifesaver. Do you expect to achieve this goal during FY 1991? Is this goal worthwhile?

ANSWER: We believe the goal is worthwhile, and we do expect to achieve it in FY 1991.

SENATOR LAUTENBERG: What evidence does FRA have that the private sector would contribute more to Operation Lifesaver if Federal support diminished?

ANSWER: We have no such evidence, however, we have no evidence to the contrary either. Operation Lifesaver is widely acknowledged as the only organization which is providing national leadership in addressing what is truly a nationwide multi-mode public transportation safety problem. No one, other than Amtrak, American Automobile Association, Association of American Railroads, and Department of Transportation agencies even have a national perspective, and these entities are active in the support and direction of OLI. OLI brings them all together. With such interest and recognition, we are hopeful and optimistic that private sector support will be forthcoming as Federal aid is diminished. (In that the railroad industry provides the bulk of financial support for state and local OL efforts, estimated at more than $1,000,000 per year, OLI will initially target other than the railroad industry as it seeks to establish a financial support base.)

SENATOR LAUTENBERG: The Rail Safety Improvement Act of 1988 required the Secretary to issue (if necessary) by June 22, 1989, Federal regulations on the testing and maintenance of grade crossing active warning devices. This determination is long overdue. What is your schedule for final decision making? How will these regulations seek to avoid the tragedy that occurred at a recent fatal rail-highway grade crossing accident in Wallingford, Connecticut?

ANSWER: FRA has drafted a Notice of Proposed Rulemaking (NPRM) that is presently under review. The NPRM will be published as soon as that review is completed. We anticipate that a regulation resulting from this rulemaking proceeding would enable FRA to determine if, and to what extent, maintenance and testing requirements would prevent accidents such as that which occurred at Wallingford, Connecticut.

COMPROMISING OF CIVIL PENALTIES

SENATOR LAUTENBERG: Committee staff has reviewed FRA's practice of substantially reducing initial penalty assessments for violations of the Hazardous Materials Regulations. Do low penalty assessments help achieve the goal of the HMTA? Do they send the desired message to industry?

ANSWER: FRA does not believe its civil penalty assessments under the Hazardous Materials Transportation Act are low. It has devised detailed guidelines for assessments that relate dollar amounts to the varying risks posed by different violations. As authorized by the Act, and like all other DOT agencies charged with enforcing the regulations under the Act, FRA compromises civil penalty assessments as appropriate and as guided by the statutory criteria established in section 110 of the Act, which requires that

> the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

We believe FRA's enforcement record indicates that the desired message is being heard and heeded by the rail industry.

SENATOR LAUTENBERG: We note many mid-1980's cases against major rail companies where settlements were roughly 50 cents on the dollar for alleged violations of the HMTA. Cases brought against these same companies years later settled for roughly 50 cents on the dollar. How does FRA explain your over-generous consideration of mitigating circumstances, especially when there is a prior history of violations and none of the claims in these cases were terminated?

ANSWER: The merits of each FRA enforcement case under the HMTA are addressed individually, and the relevant file reflects all the specific issues that were addressed and the rationale for whatever decisions were made. With respect to the percentages of final assessments, they can vary widely depending on the particular case. Some violations are so egregious that we determine that we must either collect 100 percent or litigate. Other violations are first-time incidents involving low levels of culpability for which we collect a relatively low amount, but couple the assessment with a strong warning that future violations will be dealt with more harshly. However, over time, with the many thousands of violations we consider, the average final assessment will tend to fall within a certain range. Over the past five fiscal years, the average amount collected on claims ultimately pursued was 54.5 percent, although in one year the average amount collected was 51 percent and in another 59 percent.

No one has yet proffered a standard of reference by which one could make a judgment as to whether FRA is overly generous or overly harsh in its consideration of mitigating circumstances. We are regularly accused of both by a wide variety of interested parties. All we can do is exercise informed judgment with respect to the law and facts presented in each case, do so with integrity, and do so with the larger purposes of the safety program well in mind.

As noted above, the statute cites "prior history" of the respondent as one factor to be weighed in determining a penalty. FRA believes it is an important factor, and we give it a good deal of attention. That consideration includes such issues as the time interval between violations (e.g., six months or five years?), the number of violations, the type of violations (are the same kind being committed?), the nature of the violations (consistent negligence? consistent resistance to FRA admonitions?), corporate responses to previous violations, and the location of the violation (a very large respondent may have one installation on the east coast with an otherwise spotless record, one on the west coast with a deplorable record, and a dozen in the midwest with fair to very good records). Thus, simply noting that a company has previously been the subject of an FRA enforcement action is not enough to determine that a higher penalty should have been collected in a given case. In general, we believe that the passage of considerable time between like violations lessens the aggravating nature of the earlier violations; this recognition of a substantial period of compliance tends, we believe, to help promote compliance.

SENATOR LAUTENBERG: What other factors are considered during a settlement conference besides mitigating factors? Why should the Committee be inclined to grant future requests for additional positions for the Safety Division when such substantial compromising is occurring?

ANSWER: In responsibly exercising the HMTA's grant of authority to compromise, FRA must consider many factors that fall within the general rubric (e.g., "gravity," "such other matters as justice may require) specifically provided in section 110. These include the strength of the agency's evidence, including the quality of documents and witnesses. Besides examining that issue in the context of mitigation in negotiations about the final penalty to be assessed, FRA must also consider it when judging the likelihood of its prevailing in litigation. In addition, FRA must form a judgment of the penalty likely to be imposed by a judge under all the circumstances in the event FRA should prevail in litigation. Please bear in mind that judges commonly expect the parties to make every attempt to settle suits before trial and have little patience with parties who fail to take reasonable account of the factors favoring their opponents. And amidst all these factors, FRA must weigh the safety benefits of expending very considerable agency resources and time litigating one case, while letting hundreds of others languish awaiting attention. As with any prosecutorial function, reasonable minds can differ on the decision made with respect to any one case, but we are confident that FRA is conducting an aggressive and effective hazardous materials enforcement program.

The effectiveness of the program is demonstrated by the striking record of safety in recent years: Since 1980, not a single fatality has resulted from the release of hazardous materials in a train accident. And releases of hazardous materials during train transportation are occurring half as often as they were ten years ago, despite a 20 percent increase in hazardous materials traffic on the rails.

The aggressiveness of FRA's efforts is demonstrated by the nearly $3 million in civil penalties it has collected during the past five fiscal years. The amounts collected by all agencies under the Act during those years are as follows:

U.S. Coast Guard	$ 417,645
Research and Special Programs Administration	$ 1,078,213
Federal Aviation Administration	$ 1,362,700
Federal Highway Administration	$ 1,625,511
Federal Railroad Administration	$ 2,931,610

Any future requests for additional personnel to support FRA's civil penalty program will be based on our best judgment of the resources needed to maintain our high quality program, to perform the function on a more timely basis, and to contribute to safer railroading. The alternative to the negotiation process is more litigation, for which considerably more personnel would be necessary.

SENATOR LAUTENBERG: Under what conditions and what types of violations do inspectors submit defects or violations for civil penalty action? If those infractions submitted to headquarters could not be addressed by other means or were of a serious nature, why does FRA compromise so willingly in its final assessments for so many of these cases?

ANSWER: FRA's inspectors recommend the imposition of civil penalties when they believe that is the tool that will be most effective in encouraging compliance with the safety laws. That process and the factors considered by our inspectors are discussed in detail in FRA's Statement of Agency Policy Concerning Enforcement of the Railroad Safety Laws, 49 C.F.R. Part 209, Appendix A. As authorized by the rail safety statutes, FRA negotiates on most claims by focusing on the underlying merits. FRA's purpose in this process is to take the action that will best promote rail safety; our negotiations are intended to result in the payment of the highest penalty warranted by all of the considerations relevant to a case.

Litigation of rail safety claims represents a failure of the compromise process authorized by Congress. FRA has been very successful, with a very small staff, in collecting large amounts of civil penalties while husbanding the resources of the agency. To the extent that we resort to litigation, we will very substantially reduce the amounts collected and we will further delay the process for the vast bulk of FRA's enforcement cases. During 1988 and 1989, FRA expended at least one attorney year pursuing a case against four jointly owned railroads in court, an attorney year that got us only partially through the discovery process. During that same period, the attorney could have handled many more claims than were at stake in that case. Indeed, it was in recognition of litigation as an inefficient way to process civil penalty claims that Congress chose to provide FRA with compromise authority. Only after that was done was FRA able to collect significant amounts of penalties.

Whether we like it or not, compromise is faster than litigation and requires, in most cases, giving something to get something, as the safety statutes fully contemplate. The "something" FRA most seeks is compliance with the law. If what you have characterized as a "substantial compromise" best serves that goal, as we believe it does when we agree to such a settlement, then the collection of substantially fewer dollars than the initial amount assessed is an entirely acceptable result. Moreover, one of the "other matters" any judge is likely to consider is the age of the case, and FRA must consider that in making its offers. Railroads know well that litigating these claims takes vastly more lawyer and staff time than settling them.

OFFICE OF SAFETY RELATIONSHIP WITH THE OFFICE OF CHIEF COUNSEL

SENATOR LAUTENBERG: Effective implementation of FRA's safety program requires the need for coordination and cooperation between the Office of Chief Counsel and the Office of Safety. How is FRA improving this coordination and cooperation? How are FRA's attorneys used effectively throughout the entire enforcement process and in implementing FRA's safety program?

ANSWER: FRA regards close cooperation and communication between our attorneys and our inspectors as essential to the success of the safety program. Both the attorneys and the safety professionals learn from each other when that communication occurs freely, and we are looking for ways to further improve that process. These include coordination on enforcement manuals, inclusion of attorneys as presenters in inspector training sessions, FRA and state safety inspector participation in settlement conferences, and attorney participation in Office of Safety conferences.

Through working in cooperation with our inspectors, FRA's attorneys are well armed to perform at a high level on regulatory projects with a thorough knowledge of our current regulations, the strengths and weaknesses of their text, the railroads' practices under them, and the approaches of our inspectors in enforcing them. The same is true when it comes to devising the agency's safety legislative initiatives or defending or asserting the agency's interests in litigation. In fact, it is precisely because of FRA's long tradition of safety attorneys with expertise derived from years of experience working with our safety professionals that the Department of Justice most often defers to FRA attorneys on both pleadings and court argument--with significant benefits for FRA's program.

It is primarily through the daily enforcement process that FRA safety attorneys collaborate with field and headquarters personnel, a process of cross fertilization that ultimately enhances the quality and effectiveness of our program.

INSPECTOR TIME SPENT EDUCATING INDUSTRY VERSUS TIME ALLOCATED TOWARDS ENFORCEMENT

SENATOR LAUTENBERG: For each of the various types of FRA inspectors, please provide data on what percentage of the time of these inspectors is spent educating rail carriers, hazmat shippers and others covered by your regulations and what percentage of inspector time is spent conducting enforcement-oriented activities. (Educational activities include writing notices of defects.)

ANSWER: For calendar year 1988, the percentage of time FRA inspectors spent on inspections, education, and other duties (includes time spent on accident investigations, applications/waivers, complaints, administrative matters, miscellaneous functions, travel, sick and annual leave, holidays, and training) is as follows:

Discipline	Inspection (Percent)	Education (Percent)	Other (Percent)
MP&E	44	6	50
OP	36	6	58
Track	42	3	55
S&TC	47	3	50
HazMat	38	10	52

SENATOR LAUTENBERG: If FRA inspectors spent less time on educational activities and more time bringing enforcement actions, wouldn't compliance increase faster and wouldn't the purposes of safety be better served?

ANSWER: We believe that our educational activities are an integral part of our mission and enforcement actions. Compliance by the railroads is likely to be greater when labor and management have been clearly informed as to what is required by our regulations. Our educational activities have always played an important role in safety; but with the proliferation of small railroads in recent years, the necessity for spending time on educational activities has grown. While we are constantly trying to determine the optimum balance between inspections and education, we believe that our present mix is a good one as is evidenced by the improvement in railroad safety over the past decade.

SENATOR LAUTENBERG: How does your FY 1991 budget reflect this Committee's interest in promoting an aggressive and vigorous FRA enforcement posture?

ANSWER: In FY 1990, Congress provided us with the increased field and headquarters resources that were needed to address the initial Rail Safety Improvement Act (RSIA), enacted in June 1988 workloads. Our FY 1991 budget request will enable us to implement more effectively the new RSIA regulations. We plan to reach our authorized strength of 361 inspectors by the end of June 1990, which will be the highest number of safety inspectors FRA has ever had. The FY 1991 budget reflects the resources needed to keep our inspector staffing level at 95 percent of our authorized positions; this conforms to a normal annual attrition rate of five percent. This staffing level will enable us to vigorously enforce all of our regulations including those implementing the RSIA which gave FRA enhanced enforcement authority by making individuals liable for penalties or disqualifications and raised the maximum civil penalties for safety violations. We expect to continue our rulemaking process in several other RSIA areas this year.

ENFORCEMENT CASE BACKLOG

SENATOR LAUTENBERG: How many "open" enforcement cases are now being processed by the Office of Chief Counsel?

ANSWER: FRA has 1,259 open enforcement cases at this time.

SENATOR LAUTENBERG: What is the estimated total number of alleged violations contained in all of these pending cases?

ANSWER: Those 1,259 cases contain a total of 11,379 individual instances of alleged noncompliance.

SENATOR LAUTENBERG: What is the estimated total number of violation reports waiting to be assigned to a case?

ANSWER: Approximately 14,000.

SENATOR LAUTENBERG: How long does this legal review and case assignment process typically take?

ANSWER: It was taking about 3.5 months in 1983. During the succeeding five years the caseload more than quadrupled--at the same time FRA's safety regulatory workload also increased very considerably--with no increase in resources to handle the work. Because of the consequent backlog, we are now transmitting cases that are nearly two years old. However, cases involving the most serious violations ("top priority") are handled immediately.

SENATOR LAUTENBERG: What is the potential amount of civil penalties that might be assessed in these open and future pending cases?

ANSWER: During the first five months of fiscal year 1990, we assessed a total of $10 million (compared to FRA's average annual total of $5 million), thus pushing the total amount on all outstanding cases to $16.8 million. It is difficult to estimate what penalties may be assessed on violations not yet reviewed, but the total will probably be near $15 million.

SENATOR LAUTENBERG: How many attorneys are available to handle the enforcement case and violation report processing backlog?

ANSWER: With the addition of four safety attorneys in 1989, we now have eleven staff attorneys supporting FRA's safety program, including enforcement. Through reassignment of FTEs from elsewhere in FRA, we are adding two more. As explained below, much of their time is spent on other, equally important safety duties.

SENATOR LAUTENBERG: What other responsibilities do these attorneys have?

ANSWER: The Office of Chief Counsel's Safety Division plays a major role in virtually all issues related to rail safety, including regulations, litigation, legislation, interpretations, counselling FRA's technical staff in the field and in headquarters, and dealing with the NTSB, GAO, and other parties interested in rail safety. As a notable example, FRA's attorneys developed the Administration's safety bill in 1986 and 1987, including the provisions for individual liability and increased maximum civil penalties and worked hard with Congressional staff for more than a year to ensure its passage through the legislative process and enactment as the Rail Safety Improvement Act of 1988.

Subsequently, those same FRA safety attorneys played a major role in FRA's producing a record number of rulemakings since passage of the 1988 Act. For example, FRA published final rules: (a) requiring pre-trip certification of automatic train control, train stop, or cab signal tests, (b) amending orders requiring automatic train control on the Northeast Corridor and Atlantic City lines by April 1, 1990, or if not practicable, by July 1, 1990, (c) providing blue signal protection to on-track vehicles in which rest is provided for maintenance-of-way workers, (d) establishing procedures governing the disqualification of a railroad employee who is shown to be unfit to perform safety-sensitive functions, based on his violation of an FRA safety rule, (e) revising FRA's regulations implementing the older safety laws to reflect FRA jurisdiction over "railroads," and (f) prohibiting willful tampering with certain safety devices. FRA also published an interim rule extending the civil penalty provisions of its rules to individuals and increased the maximum penalty from $2,500 to $10,000 (and potentially $20,000); issued new penalty schedules raising the penalties it will initially assess for violations of particular regulations; and issued a final statement of agency policy concerning its enforcement of the railroad safety laws.

FRA's safety lawyers are also handling a variety of pending regulatory matters such as: (a) FRA's proposal to amend its accident reporting regulations (49 CFR Part 225) to provide that if, in reporting an accident to FRA, a railroad assigns human error as a cause of the accident, the report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident, (b) FRA's proposal with respect to a program of licensing or certification of operators of locomotives, and (c) FRA's proposal regarding the maintenance of train-activated signal systems and devices at highway grade crossings.

FRA's safety attorneys also play an important role in litigation on behalf of the rail safety program. During the past couple of years alone, they have successfully defended FRA's alcohol and drug rules against Fourth Amendment challenge (Skinner v. Railway Labor Executives' Association), including an active role in preparing and accompanying the Attorney General in his appearance before the Supreme Court on the case. FRA's attorneys expended very significant attorney time in bringing suit on more than $800,000 in claims against several railroads (United States v. Boston and Maine Corporation, et al.). Over several years FRA's safety attorneys successfully litigated a hazardous materials case that involved the meaning of "knowingly" in the Hazardous Materials Transportation Act (Southern Railway Company v. Riley). FRA's safety attorneys are currently assisting the Department of Justice in defending challenges to FRA's random drug testing regulations (Railway Labor Executives' Association v. Burnley). FRA's safety attorneys are also handling a rail labor challenge to an FRA interpretation of the Hours of Service Act concerning the status of train crews who have completed their maximum twelve hours of continuous service, but must remain with their train while awaiting deadhead transportation (United Transportation Union v. Skinner).

SENATOR LAUTENBERG: How long does it usually take from the time a proposed enforcement action is submitted to headquarters to the time a civil penalty is collected?

ANSWER: With the backlog, it is currently about 2.9 years.

SENATOR LAUTENBERG: Please explain how this time delay may adversely affect safety or the timeliness of compliance.

ANSWER: FRA is committed to improving the timeliness of our civil penalty process, and we are in the midst of important steps to make that happen. It must be remembered, however, that facing civil penalties is a consequence of alleged noncompliance. The delay between violation and penalty collection does not vitiate the process happening on the ground where the problem lies. That is, at the time an FRA inspector prepares a violation report, he or she notifies the railroad or shipper of the problems found and of the fact that civil prosecution is being recommended. A copy of the violation report is given to the respondent at that time. Thus, the opportunity for immediate remediation is available, and that issue receives close attention from FRA during the civil penalty process. Indeed, a failure to take appropriate remedial action can result in additional violation reports that then receive the top priority designation for immediate handling by FRA's attorneys. Therefore, while quicker penalty assessment and collection may have a greater deterrent effect (which is why we are striving for it), the speed with which we assess a penalty usually does not affect remediation of the specific defects cited. In top priority cases, a combination of seriousness and recalcitrance makes speed essential, and we do act speedily.

SENATOR LAUTENBERG: How would one or two additional attorneys be able to reduce the current enforcement case and violation report processing backlog at FRA?

ANSWER: Any number of additional attorneys would help in that effort. Each attorney may be expected to handle about 750 violation reports annually and, therefore, would reduce the backlog by that amount annually.

SENATOR LAUTENBERG: What else can be done by FRA to speed up the legal processing of violation reports submitted by its Office of Safety?

ANSWER: The other major effort has been computerization of the civil penalty process. For the past year, charging documents for all enforcement cases but hazardous materials cases have been generated by the computer. This eliminated many time-consuming clerical steps from the process of handling this enormous volume of paperwork and enhanced the ease and speed of the remaining steps. This increased our productivity very substantially. It was only because of the computer that we were able to assess $10 million during the first five months of fiscal year 1990. We are now in the process of developing a more sophisticated software approach that will provide all attorneys direct access to the data base and permit the computer generation of hazardous materials cases.

TIMELY SETTLING OF ENFORCEMENT CASES

SENATOR LAUTENBERG: Subcommittee staff has been informed that it sometimes takes 1 and 1/2 years or more between the time FRA inspectors write up a violation to the final settlement of an enforcement case. For those violations that were closed during FY 1989, how many involved cases in which it was more than 12 months between the time the violations were first noted to when final settlement occurred?

ANSWER: Because of the nature of our data base, I am not able to give a precise answer to this question; however, I imagine the answer is 95 percent or more.

SENATOR LAUTENBERG: What is FRA doing to reduce this time lag? Given the increase in FRA's legal staff that was supported by this Subcommittee and the improved computerization of enforcement processing by FRA's Office of Chief Counsel, when will this time lag be substantially shortened?

ANSWER: We have turned the corner on the time lag. With the advent of the first phase of computerization and the addition of four attorneys last year, the problem is no longer getting worse. At the Administrator's direction, the Chief Counsel has prepared an action plan to eliminate the current backlog and to reduce the amount of time between the occurrence of a violation and the collection of the resulting civil penalty.

SENATOR LAUTENBERG: What can be done to stop FRA's practice of waiting to settle so many enforcement cases until the end of the fiscal year?

ANSWER: Cases are closed throughout the fiscal year, primarily those against shippers and smaller railroads. Closing these cases takes disproportionate amounts of time. However, the caseload on the larger railroads--the vast majority of our enforcement work--is such that case-by-case handling throughout the year is neither possible nor desirable. To enable the few attorneys we have to handle such a huge caseload, we must avail ourselves of the significant economies of scale afforded by holding extensive negotiations with these railroads annually to consider an aggregation of pending cases totalling hundreds of thousands of dollars. More important, however, we need both large enough aggregations of claims to demand the attention of senior management in billion-dollar companies and cases covering the full sweep of each railroad's safety behavior to achieve the safety compliance impact we seek. Settlement conferences are a critically important tool for obtaining safety compliance by bringing senior railroad management to focus on safety problems in detail.

Thus, our enforcement process follows a natural rhythm by which penalty assessments dominate our activity during the first half of the fiscal year and negotiations and settlements the second half. It is not as though--as the question implies--FRA is "waiting" to settle cases until the end of the year and not performing enforcement work while waiting. Time spent on more frequent negotiations with large railroads would be time taken away from some other aspect of enforcement: transmitting cases or settling with shippers and small railroads. More frequent settlements--a goal that sounds nice on first hearing--would, given the substantial time those negotiations take, only exacerbate overall delays. Worse, more frequent settlement conferences would seriously dilute the impact settlement conferences now carry and would disserve safety.

SENATOR LAUTENBERG: What is the ratio of inspectors to attorneys handling enforcement cases in both FRA and FAA? How does this ratio influence the timely settling of enforcement cases?

ANSWER: Until 1989, when FRA added four staff attorneys, the ratio of staff attorneys to inspectors was 62:1. As of June 1990 when FRA will complete adding 34 new safety inspectors, the ratio will be 36:1 (361 FRA inspectors plus 109 state inspectors divided by 11 staff attorneys plus two supervisors). FAA's current ratio is 17:1; it projects moving to 15:1. Clearly, with a more favorable ratio, FRA could handle its enforcement work more expeditiously.

FOLLOWUP OF DEFECT NOTICES OR CITED VIOLATIONS

SENATOR LAUTENBERG: For Region 1, which includes New Jersey and New York, please review all the notices of defects that were filed for fiscal year 1989 with railroads and all of the violations that were cited by FRA and calculate the percentage of defects and violations in which FRA inspectors might have been able to go back and check to see if the defect or violations were accurately corrected and of these instances the percentage of cases in which FRA inspectors did go back and check.

ANSWER: The FRA is in the process of creating a computerized database to assist in monitoring the compliance with the requirement for railroads to file with the FRA headquarters their operating rules, timetables, timetable special instructions, plan of rules instruction and examination, and plan of operating efficiency testing. When completed, the program will more closely coordinate joint efforts in that area between the inspectors and the headquarters staff.

The scheduling of followup inspections cannot be rigid and therefore percentages cannot be calculated as requested. This effort will be balanced by the fact that FRA's inspection resources are extremely limited and that those finite resources should continue to be used in the most efficient manner to promote safety.

Serious defects disclosed by FRA inspections during assessments and routine inspections are required to be corrected immediately or restrictive actions are taken, such as placing slow orders on sections of track or removing defective equipment from service. For less serious defects that the railroad is unable to correct immediately, the FRA inspector is assured by the railroad that the defect will be corrected promptly. Random followup inspections conducted by FRA have shown that the vast majority of the defects are corrected promptly.

The FRA generally conducts a followup inspection within three to six months of the completion of a safety assessment. The purpose of the post-assessment investigation is to determine if the carrier has corrected the items of concern in the initial assessment. Each item listed in the assessment report will be reviewed for corrective action, including defects. The carriers are aware that this is the procedure that is to be followed, and it defined in FRA's Guidelines for Conducting Railroad Safety Audits and Assessments.

The existing procedure for track and signal defect correction provides and effective method of determining the remedial action taken by a carrier. Although such a response is not required by Federal regulation, carriers are encouraged to show on an enclosure to the inspection report that the defects entered on that report have been repaired, and to mail that enclosure to FRA. In any instance, followup inspections are made to determine if those necessary repairs were actually made.

In the other disciplines, followup procedures are more difficult to develop because there is no specific piece of equipment to reinspect. In some parts of the mechanical, operating practices and hazardous materials fields, routine inspections of records can determine if corrective actions have been taken by the carriers.

Deficiencies observed by operating practices inspectors involving human performance are usually a one-time observation of an individual or of a crew. Those circumstances would not likely exist again under the same operating condition with the same person or crewmembers. The obvious necessary followup procedure is to observe other individuals and/or crews at that same location to determine if those deficient operating practices are repeated.

In all cases, human factor noncompliance is brought to the attention of a responsible carrier official.

Regional supervisory and inspector oversight determine the need for reinspection. Regional supervisors have access to the Railroad Inspection Reporting System (RIRS) which can produce reports to measure specific noncomplying conditions on any railroad division or on the railroad system.

SENATOR LAUTENBERG: How effective are FRA's followup procedures to assure that railroads and hazmat shippers correct defects and violations cited?

ANSWER: Hazardous materials defects and violation activities are complex in that many variables are involved in the decision process which include the following factors: degree of severity of the safety infraction, documentation collection, interviews, and repetitious inspections concerning prior infractions at that particular facility.

However, FRA has instituted formal programs, designed to gain parity among the disciplines with the ability to obtain controlled and viable data for the FRA's data base system.

FRA AND HAZMAT ENFORCEMENT

SENATOR LAUTENBERG: How do FRA inspectors use a systematic approach to targeting high-risk shippers and railroads for inspection?

ANSWER: Currently FRA uses the professional judgement of its inspectors to evaluate and determine high-risk shippers. Once FRA's risk assessment model is complete, FRA Headquarters staff will allocate resources to those areas of greatest needs.

SENATOR LAUTENBERG: How does FRA evaluate the effectiveness of hazmat shippers and railroads safety procedures?

ANSWER: Currently, FRA does not directly evaluate shippers or carriers safety procedures. We do, however, evaluate the end results of these procedures to determine if shippers and railroads are complying with the Federal regulations. As stated earlier, FRA is planning to develop regulations to require shippers to maintain written safety procedures when preparing packages for transportation by rail.

SENATOR LAUTENBERG: How can this Committee be assured that FRA inspectors will focus adequately on high-risk hazmat shippers?

ANSWER: You have my word. However, we will make it a priority for our inspectors to identify and concentrate their hazmat efforts on high-risk shippers. I believe that the overall safety record of the rail transportation industry is a good indication of FRA's safety commitment.

OPERATION LIFESAVER

SENATOR LAUTENBERG: The FHWA provides annually hundreds of millions of dollars for construction and engineering work on public highway-rail grade crossings. However, the FHWA and FRA only provide annually hundreds of thousands of dollars for public education about highway-rail grade crossing safety.

What is the cost-effectiveness of these different approaches to promoting safety?

ANSWER: The FHWA, in The 1989 Annual Report on Highway Safety Improvement Programs, a report of the Secretary of Transportation to the United States Congress, dated April 1989, reports that the benefit to cost ratio for highway-rail crossing safety improvement projects funded from the Section 130 program was 2.0. Warning device projects returned at rates varying between 2.1 and 2.8. The report goes on to note that, "The Rail-Highway Crossings program continues to show the greatest percentage of accident reductions. Fatal, injury, and fatal-plus-injury accidents have been reduced by 89, 63, and 67 percent, respectively. Evaluated improvements under the Rail-Highway Crossings program indicate the program has prevented over 5,000 fatalities and 20,000 injuries."

Unfortunately, such objective measures are not available for Operation Lifesaver. In fact, I wonder if the FHWA report can legitimately claim that the above noted achievements were accomplished exclusive of the influence of Operation Lifesaver programs. Attempts to evaluate OL in terms of accidents and casualties have repeatedly bogged down on this very issue, i.e, how to separate those accidents and casualties prevented by OL from those prevented by the Section 130 improvement projects. Other factors which we know have a significant impact on accident and casualty numbers include highway traffic and railroad train counts. All of these would have to be factored into an objective evaluation. What we can do is measure the rate of accomplishment of OLI's day-to-day tasks, that of producing and distributing materials, coordinating programs and requests for assistance, and representing OL and the 3E message to all who will listen. For 1989, Operation Lifesaver, Inc. (OLI) reports that:

> Over 2.8 million pieces of printed material were produced and distributed; combined with 38,000 non-print materials distributed, the total tangible materials produced and distributed by OLI came to nearly three million.
>
> Eight Regional Workshops were held in 1989, drawing 375 attendees. Ninety-nine percent of the attendees voted for continuation of this series of training opportunities.
>
> Over 119,000 miles were traveled by National Support Center staff, with 24 states personally visited and provided with direct technical assistance. State Coordinators were assisted with a range of projects, from implementing Officer-On-The-Train enforcement programs to reorganization of state committees. New methods of service delivery such as the OL TipSheet and the Regional Liaisons were implemented and received with great success.
>
> National Support Center WATS-line calls increased from 72 in the first month to 241 in December 1989, an increase of 235 percent. In response, general information packets were designed which include sample brochures and printed information, as well as the name and address of the State Coordinator for each individual to contact. A packet was sent to each caller. Also in response, OLI staff and volunteers fulfilled many speaking engagements, exposing an additional 2,000 industry people to the accomplishments and goals of OLI.
>
> The 1990 OLI budget includes a National OL Symposium (to be held in Coeur d'Alene, Idaho, July 9-12), the production of a generic OL film, the distribution of additional public service announcements featuring actor Michael Gross (the OL National Spokesperson), the release of two different brochures targeted on mature drivers and law enforcement personnel, the procurement of a freestanding display, and emphasis programs for truck drivers and those states which are experiencing increases in accident statistics.

SENATOR LAUTENBERG: Does DOT support of education-oriented activities need to be made a more equal partner, especially in view of the fact that a substantial percentage of fatalities occur at crossings with active warning devices?

ANSWER: Any program can benefit from the infusion of more funds, and OL is no exception. However, the relative scale of fiscal support cited above, hundreds of millions versus hundreds of thousands, is most certainly correct. Significantly altering this would adversely impact the engineering and warning device program while at the same time it would overwhelm the OLI capability to deliver services and be out of proportion to the overall problem that highway-rail crossings present to the total transportation safety problem. The current relationship is both workable and defensible.

SENATOR LAUTENBERG: Does Federal support of Operation Lifesaver need to be increased?

ANSWER: Some increase in support to OL and to OLI could be beneficially applied, however, that increase need not necessarily come from Federal resources. OLI has not yet established a real fund-raising initiative.

SENATOR LAUTENBERG: Because the number of deaths, injuries, and accidents occurring at public highway-rail grade crossings involving motor vehicles increased from 1987 to 1988, does this suggest the need for additional educational-type activities through Operation Lifesaver?

ANSWER: Yes, or at least more urgency and more targeting and selectivity in the delivery of current programs and activities. Though accidents went down slightly in 1989, fatalities and injuries both increased. Accident severity is increasing. Almost one highway-rail crossing accident in ten now produces at least one fatality. This too is an alarming development. State and local program coordinators are considering the need to refine and target OL activities. For example, specific locales and population subgroups are being considered for increased activity, i.e., OL blitzes, as opposed to statewide OL awareness type programs. Many dedicated OL advocates across the country are aware of these statistical trends and are reacting with increased effort.

SENATOR LAUTENBERG: How does the FY 1991 request reflect increasing concern for grade-crossing accidents?

ANSWER: FRA's FY 1991 budget request will provide funds necessary to continue the programs which provide some support to Operation Lifesaver, Inc., continuation of information processing of crossing-related data within FRA, training and promotional efforts and research and development.

SENATOR LAUTENBERG: How is Operation Lifesaver trying to increase private support for its activities?

ANSWER: Operation Lifesaver, Inc. has begun to diversify its fund-raising efforts in order to develop support from the private sector this year. These plans are preliminary and no tangible results have as yet been received. Plans have been developed in three basic areas: Special Events; Membership/Direct Mail; and, Corporations/Foundations.

On September 19, 1990, a special cocktail reception will be held at Union Station. Ticket price will be $75 and proceeds will go to OLI.

Also in September, a direct mail membership solicitation will be sent to 5-6 thousand individuals with demonstrated high interest in OLI. If successful, OLI may then mail larger quantities in an attempt to build a donor base.

Finally, preliminary research has been completed and draft materials are being readied for the launching of specific solicitations aimed at corporations and foundations. Emphasis with foundations will be on specific projects, while corporations will be requested to donate to general operating funds to support the OLI National Support Center.

FRA FAILS TO EVALUATE HAZMAT RISK

SENATOR LAUTENBERG: The FRA was criticized by the NTSB back in 1981 and again this past February for failing to identify unreasonable safety risks for hazardous materials transported in rail tank cars.

Twice in the last nine years, the NTSB has recommended that you use a safety analysis approach to identify which forms of hazardous materials pose the greatest risk to the public.

Instead of developing your own guidelines, your agency has depended on the railroad and tank car industry to set these standards.

Since the amount of hazardous material moving by rail has increased significantly since 1981, are you now at the point where you are going to take these NTSB recommendations more seriously? What precisely are you doing to respond to the NTSB recommendation?

ANSWER: FRA takes all NTSB recommendations seriously. In addition, the United States Government has utilized the expertise of the shipping, transportation, and manufacturing communities for the development of railroad tank car safety regulations since 1921 authorized by Congress in Section 233 of the Explosives and Dangerous Articles Act. Since the creation of the Department of Transportation, FRA and the RSPA have made tremendous safety improvements in tank cars that have resulted in a 95 percent reduction in head punctures and a reduction of the frequency of punctures and ruptures of cars carrying flammable gases.

A contract will be issued in the near future for an evaluation of the tank car/commodity interrelationship (using information from FRA's, AAR's and the RPI's data bases) to identify unacceptable levels of risks and the degree of risk from the release of hazardous materials. Based on the results of the contract, FRA will initiate rulemaking procedures, if needed.

SENATOR LAUTENBERG: I understand that the FRA intends to change its relationship with the AAR and its tank car committee in evaluating the safety of tank cars. Please explain to us what changes you intend to make?

ANSWER: FRA has made several changes since 1988, with the Tank Car Committee, including participation at each meeting and the initiation and cooperation with joint FRA Research and Development projects to improve tank car safety.

DO FRA INSPECTORS EVER DOUBLE-CHECK INDUSTRY DATA?

SENATOR LAUTENBERG: The FRA inspection program is similar to the inspection programs in other modal agencies. Your inspectors rely almost exclusively on the data supplied by the industry itself on the frequency and severity of individual accidents and injuries.

- What mechanism does your inspectors have for double-checking the industry's records?
- How often is this done? What percentage of your inspector's time is spent double checking industry records?
- If there was, for example, an accident in freight yard where a single operator experienced damage to its own cars and minor injuries to its employees, how would the FRA even know about it, if the operator chose not to report the incident?

ANSWER: Whenever the FRA investigates an accident, the railroad's accident report becomes part of the accident investigation folder. The railroad's report is reviewed by the inspector and discrepancies are resolved, and a possible violation written. In the past, the Operating Practices Inspectors reviewed only the accident and casualty files. Now they also review the railroad's control systems to insure that the railroads are using all the information available (such as reviewing claims, medical records and payroll records) before they file an accident/incident report.

The Office of Safety has doubled the amount of time that the Operating Practices Inspectors will spend doing accident/incident records investigations. At least 10 percent of the Operating Practices Inspector's time will be spent reviewing accident and injury records.

Operating Practices Inspectors typically review the railroad's casualty records, medical records and payroll records. If a small railroad accident occurred, with injuries, and the railroad did not report the accident and/or injuries, then the railroad could be fined for not filing the accident report and not filing each injury. Each case of nonreporting is a separate violation. When there is an accident or incident, the employees involved can and do request the railroad's accident and injury reports from the FRA. If the employees believe that it was not reported, they can file a complaint privately, through their union or through their Congressman; the FRA does investigate all complaints.

An Advanced Notice of Proposed Rule Making hearing is scheduled for May 17, 1990, to review and receive suggestions about enhanced reporting techniques and to improve the accident/incident system analysis.

PACE OF RULEMAKING/RAIL SAFETY ACT

SENATOR LAUTENBERG: The Rail Safety Improvement Act of 1988 mandated an important series of new rulemakings. FRA has done a good job of getting some of these rules out but we are still waiting for rules in some very important areas. What is the status of the requirement that FRA establish a program for licensing or certification of locomotive operators? When can we expect final rules on this?

ANSWER: FRA issued a very substantial notice of proposed rulemaking on the issue of qualifications of operators of locomotives on December 11, 1989. A series of public hearings on that NPRM has been held around the country and a large rulemaking record has been developed. The comment period closes on June 4, 1990. Given the size and complexity of this undertaking and the lengthy review process it will entail, we face a major challenge in attempting to finish this rule by December 31, 1990.

SENATOR LAUTENBERG: What about the requirement that trains be equipped with tamper-resistant event recorders?

ANSWER: With respect to event recorders, FRA issued an advance notice of proposed rulemaking on November 23, 1988, and held a hearing on January 10, 1989. FRA is now evaluating the circumstances under which such recorders should be required.

SENATOR LAUTENBERG: Do the same attorneys who work on the development of regulations also process FRA's civil penalty enforcement cases?

ANSWER: Yes, the same attorneys who work on the development of regulations also process FRA's civil penalty enforcement cases. Our safety attorneys must learn the railroad industry and rail safety law. Having done that, they are equipped to represent the agency effectively in a wide variety of contexts. Moreover, the quality of our new regulations and amendments of existing rules is immeasurably enhanced by having attorneys write them who are intimately familiar with the rules through enforcing them. Thus, our enforcers are better regulators and vice versa.

SENATOR LAUTENBERG: The Rail Safety Act requires FRA to submit a report to Congress on whether training standards are necessary for dispatchers. When should we expect to see this report?

ANSWER: The report on training standards for dispatchers has cleared all reviews and has been forwarded to the Secretary for transmittal to Congress by May 30, 1990.

SENATOR LAUTENBERG: For all the regulations which have not yet been finalized, would you please supply for the record an estimated schedule for their completion?

ANSWER: For those regulations not yet issued under the Rail Safety Improvement Act of 1988, the following is an estimated schedule for completion:

o	Rule to provide for employee supplements to railroad accident reports where human error is assigned as a cause.	5/30/90
o	Consider need for FRA rules on bridge worker safety. No determination made as yet.	
o	Rule to establish a program for licensing or certification of operators of locomotives through a program of review and approval of each railroad's qualification standards.	12/31/90
o	Proposed rule requiring tamper-resistant event recorders on trains.	10/31/90
o	Proposed rule to ensure maintenance of train-activated signal systems and devices at highway grade crossings.	7/15/90

NEW JERSEY TRANSIT ASSESSMENT FOLLOWUP

SENATOR LAUTENBERG: Last year, the FRA completed a safety assessment of New Jersey Transit at my request. This assessment gave rise to a number of safety recommendations. What followup meetings have you held with New Jersey Transit regarding these recommendations? Have you met with the relevant unions to discuss these recommendations? When do you intend to conduct these followup activities?

ANSWER: New Jersey Transit officials were orally advised of the results of each inspection as soon as it was completed. In addition, they received a copy of the inspector's report. Where significant findings critical to safety were discovered, appropriate carrier officers were contacted for immediate remedial action.

FRA has not met with the labor unions. It is our position to meet with the labor unions only after a follow-up inspection has taken place. This allows FRA to show labor, as well as, management the changes that have been implemented to gain compliance.

FRA intends to conduct a followup inspection before the end of FY 1991.

USER FEES

SENATOR LAUTENBERG: The administration is again requesting user fees, this year at the level of $20 million, to offset the cost of its inspection program. What is the justification for such a user fee?

ANSWER: In making the railroad environment safer, and in making sure every railroad meets the same standards, FRA's safety program provides significant benefits to the industry. As the principal beneficiary of this program--through reduced personal injuries, property damage, and related tort claims--the railroads can reasonably be expected to pay for it. The amounts to be collected provide a phase-in period leading to full coverage of the costs of administering the federal railroad safety program through user fees.

SENATOR LAUTENBERG: Since the annual cost of the inspection program is expected to be $36.5 million in 1991, why do you request user fee revenue of only $20 million? Why not the whole amount?

ANSWER: Based on a two-year phase-in of the user fee proposal starting in FY 1991, it was assumed that Congress would enact legislation by the start of FY 1991, October 1990. Estimating that it would take four to six months to implement the legislation and assess the railroads, and given that the cost of the Railroad Safety program in FY 1991 is estimated at $36.5 million, the $20 million was arrived at as an average between the estimated months of assessment (from a low of $18 million to a high of $24 million).

TERMINATION OF THE LOCAL RAIL SERVICE ASSISTANCE PROGRAM

SENATOR LAUTENBERG: Your budget documents state that "FRA believes that the Class II and Class III railroads are a necessary complement to the major Class I railroads, and together provide an important service to the overall national defense of our country, provide essential services to small cities and towns and rural areas, and have a critical role in helping to solve the nation's transportation problems." Given your support for the Class II and III railroads, why are you requesting that we terminate funding for local rail service assistance?

ANSWER: This program has served its original purpose, and is no longer a Federal responsibility. Most of the problems caused by major rail carrier abandonments, which the Local Rail Service Assistance Program was originally designed to correct, are local in nature and the responsiblity of State and local governments. Many of the financial problems of the Northeastern and Midwestern railroads were ameliorated by the Staggers Act and various tax law changes. In the context of the budget deficit, we cannot afford to continue low priority programs such as this. The FY 1991 budget request does include $75,000 to provide technical assistance to short line and regional railroads, which are generally less profitable than Class I railroads.

RESEARCH ON ACCIDENTS DUE TO HUMAN FACTORS

SENATOR LAUTENBERG: According to FRA's figures, 32 percent of all rail accidents are a result of human factors. Last year, you informed this Committee that human factors had, for the first time, become the largest single contributor to rail accidents. As part of last year's bill, we asked that FRA look to dramatically increase its research efforts in this area. Your budget before us seeks to increase your research in the area of human factors from 11 percent to 14.3 percent of your research budget. Does that kind of increase seem "dramatic" to you, Mr. Carmichael, given that human factors is one of the largest causes of accidents on the railroads?

ANSWER: The FY 1991 request for human factors research is $211,000 greater than new budget authority for FY 1990. This is a 23.4 percent increase in funding, which is substantial. Levels of funding represented as a percentage of the total research budget can be misleading for the following reasons: (1) research projects involving hardware, such as track or equipment, and expensive instrumentation are usually more costly than human factors research due to the high cost of the equipment required and the lengthy periods of time often needed for data collection, whereas human factors research needs may often be met with the appropriate application of expertise and labor; and (2) when equipment is needed for human factors research, it is usually relatively inexpensive or it involves the use of the Research and Locomotive Evaluator/Simulator (RALES) for only the costs of operation and maintenance.

SENATOR LAUTENBERG: What do you plan to do with the increased funding you have requested for human factors research, and what more do you think you can be doing within the funds allotted?

ANSWER: In FY 1991, we plan to continue work in the following human factors research areas: grade crossing safety; enginemen stress and fatigue; dispatcher and dispatching center functions; evaluation of advanced train control systems; and locomotive cab safety. Beginning in FY 1991, we propose to evaluate locomotive engineer training.

SENATOR LAUTENBERG: I was informed that a research project originally planned for 1991 on operating practices for railroad workers was deferred into 1992. Is this correct?

ANSWER: Yes. Based on on-going activities, we could not effectively initiate and implement that research in FY 1991. The proposed projects were considered as having higher priority than initiating a new project dealing with evaluating the operating rules structure, and related training and testing. That project will be considered for our FY 1992 program.

KEEPING DRUNK DRIVERS OUT OF LOCOMOTIVES

SENATOR LAUTENBERG: One of the provisions of the RSIA was to allow the private railroads access to the National Driver Register maintained by NHTSA to check if engineers might have drunk driving convictions. What is the status of this new policy? Do all the private rail companies have access to the NDR currently?

ANSWER: FRA issued a notice of proposed rulemaking concerning the qualifications of locomotive operators on December 11, 1989, and held public hearings on the proposal on March 14, 1990, in Chicago and on April 11 and 12 in Washington, D.C. The deadline for submitting written comments on the proposal has been extended to June 4, 1990. FRA has proposed making a final rule in this proceeding effective on or about December 31, 1990.

FRA proposes that in making determinations about a person's eligibility to operate locomotives, railroads will have to consider the individual's recent (previous 5 years) conduct as a railroad employee and as a motor vehicle operator. For the purposes of this rule, a point system would be used to evaluate the significance of instances in which the person had been involved with alcohol or drugs while on duty as a railroad employee or while operating a motor vehicle and instances in which the person operated a train or motor vehicle unsafely.

An incident of substance abuse would trigger an evaluation by a skilled professional (e.g., medical review officers and Employee Assistance Program counselors), whether related to railroad employment or motor vehicle driving. Those found to have received appropriate counseling or treatment after the incident would not be assigned points. Absent such professional attention, each incident would be assigned a value of three points and be considered under the system's criteria. The professional would also consider whether the person is currently dependent on alcohol or drugs or has a treatable disorder involving abuse of alcohol or drugs as a manifestation. If the professionals conclude that such a condition exists and sufficient intervention has occurred, railroads could permit the person to perform service subject to the aftercare and testing provisions contained in FRA's alcohol and drug rules.

Under the system proposed by FRA, certification candidates would have the initial responsibility for furnishing the data concerning driving history to the rail company. To discharge that responsibility, they would have to query the relevant state agencies and the National Driver's Register and instruct the state agency or NHTSA to furnish the results to the railroad. Certification candidates are obligated to initiate the query because rail companies are not authorized direct access to NDR data. Assuming that relevant information is uncovered, candidates would be given an opportunity to review and comment on any adverse motor vehicle operation data before a railroad considered it.

UPDATE ON UNION STATION

QUESTION: We were all pleased to see the opening of Union Station. It is a very ambitious redevelopment effort. We know that, at some point, it is the hope that D.O.T. will turn a profit for its acquisition of Union Station. It appears that they are doing a bang-up business down there. What update can you give us on Union Station? What is the status now with rental payments from the developer? When do you think we can hope for the Department of Transportation to realize a profit on its investment?

ANSWER: You are right that business is very good, both for the retail tenants and for Amtrak. The commercial development exceeded its projected performance in the first full year dramatically; it attained levels projected in the pro forma financial statements to be reached only in 1995. Overall, sales at Union Station were more than $470 per square foot during 1989. According to the Urban Land Institute, this places Union Station at the top of specialty retail centers in the Nation.

Amtrak's business through Union Station has also soared. While only a portion of the increase may fairly be attributed to the station redevelopment, it is clear that the station induces more people to ride the train.

Large numbers of retail patrons and Amtrak passengers also means a full garage. The parking garage has been operating at full capacity for months, and revenues from it have risen accordingly to meet the projections for it.

The developer, Union Station Venture (USV), has made the required payments of base rent on time for both the partial year of 1988 and the full year of 1989. USV paid the Union Station Redevelopment Corporation (USRC) $251,000 for the period from September 30, 1988, when the station opened, through December 31, 1988 and $1,000,000 for 1989. Each of those payments was due on April 15 following the end of the year for which it was due. In like manner, $750,000 in base rent for January through September of 1990 will be due on April 15, 1991. On October 1, 1990, USV will begin making monthly payments of base rent. USV and USRC are negotiating over whether USV owes any participation rent at this time.

We do not anticipate that the Department will ever make a profit on its investment in Union Station. The amounts paid on the first deed of trust will be repaid, but that is all. USRC's revenues are devoted first to pay USRC's operating costs, second to reimburse the Department for payments on the first deed of trust, and third to reimburse Amtrak for the $70 million Amtrak invested in the rehabilitation and renovation of the station.

Union Station is also doing well in non-financial ways. The architectural and historic significance of the project has been widely acclaimed. Concrete recognition has been extended in the form of the National Trust for Historic Preservation's 1989 National Preservation Honor Award, the Washington Chapter of the American Institute of Architect's 1989 Honor Award, the Chicago Chapter of the American Institute of Architect's 1989 Distinguished Preservation Award, Mayor Barry's 1989 Environmental Design Award, and the Associated General Contractors' Build America Award.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

DRUG TESTING

SENATOR D'AMATO: As you know, I introduced S. 2434 (with Senators DeConcini, Wilson, McConnell and Coats) to allow UMTA to require its grantees to establish employee drug testing programs. FRA has a program in place. What have been the results thus far, especially with respect to random drug resting portion of the program?

ANSWER: We believe that drug testing conducted in the railroad industry has been effective, together with other initiatives, in reducing use by non-dependent users and in convincing dependent users to seek treatment. We have seen post-accident testing drug positives fall from the 5% range to 3.0% in 1989. Other indicators appear to be on the decline as, well.

Early information with respect to random testing suggests the possibility that implementation of the program has encouraged further employee assistance program referrals. If initial, informal reports are correct, positive rates were apparently very low in the initial months (less than 2%). We have to be willing to follow-through, however, since initial implementation of any program often produces effects that require significant effort to sustain.

DELAWARE AND HUDSON RAILROAD

SENATOR D'AMATO: As you know, the Federal Bankruptcy Court has now given the Trustee of the Delaware and Hudson Railroad until May 16 to select a new bidder for the railroad. The Trustee told the court that none of the 3 bids submitted are adequate, but that he needed time to negotiate with bidders. Operation of the D&H must cease by May 31.

Three bids have been submitted: (1) Canadian Pacific Corp. (does not include Conrail's Hagarstown trackage rights); (2) Providence & Worcester offer of a merger; and (3) New York Susquehanna and Western offer of local service.

I believe that liquidation of the railroad is against the public interest. Will FRA assist the Trustee to sell the D&H as a going concern?

ANSWER: I share your view that financially viable rail service over the D&H is in the public interest. Preserving that service while being mindful of the taxpayers' investment in the D&H are the goals which this Department has pursued in the bankruptcy proceedings.

These goals brought us to the conclusion that the region's transportation interests and the government's investment are best served by acquisition of the railroad by a strong viable competitor who will make a term commitment to provide service over the D&H.

At the outset of the bidding process, the Department did not rush to endorse the CP proposal. However, our negotiations were successful in securing from CP the modification of its bid to include a $35 million contingent note to FRA to assure long-term rail service. The trustee recommends the Canadian Pacific bid to the bankruptcy court and at this point the Department intends to support that recommendation.

HELLGATE BRIDGE

SENATOR D'AMATO: New York officials have expressed concern that Amtrak's Hellgate Bridge, which runs for about 2.7 miles, has not been painted since 1939. Rust is evident on the structure, however, Amtrak says it would cost $43 million (nearly 2 years worth of Amtrak's track and bridge maintenance budget) to paint it and that the rust is a cosmetic, not structural defect. Would FRA's engineers take a look at the Hellgate to assure us that safety is not compromised by delaying repainting this bridge?

ANSWER: Yes, FRA will have a team of two or more FRA inspectors or specialists look at the steel arch over the East River. Amtrak inspects the structure at least annually and FRA Cambridge Regional personnel inspected the structure of May 18, 1989. Although the track structure was the primary focal point, the FRA inspectors took no exception to the visible surface area of the arch.

The Hell Gate Viaduct, some 3 1/2 miles long, contains a major structure defined as the Hell Gate Steel Arch. This steel structure is 977-feet long, built in 1915, and supports three tracks. Passenger train speed is limited to 60 mph and freight train speed to 40 mph.

The arch itself is made up of massive box steel chords, riveted rather than welded, and supports the bridge by suspended vertical steel members. The plate steel forming the box chords is so thick that any rust is merely cosmetic and the structural integrity of the arch is not in question.

A portion of the estimated cost to paint the Hell Gate Arch is attributed to stringent EPA requirements that prevent continuous brush off blasting to minimize "particle fall" from existing lead-based paint. Surface preparation of the bridge and/or application of special adherent paints present environmental questions that have not, as yet, been answered. Even if EPA approves a cleaning and painting procedure, Amtrak alleges that, in and of themselves, they do not have the funds to dedicate to the 977-foot arch, and that structural design encompassing massive steel members does not, at this time, justify painting.

QUESTIONS SUBMITTED BY SENATOR DOMENICI

LOCAL RAIL SERVICE ASSISTANCE

SENATOR DOMENICI: Mr. Carmichael, the Administration has proposed the termination of the local rail service assistance program, which provides state and local governments with important resources to plan and develop local rail service.

In the President's recent National Transportation Strategy, the Administration states, and I quote, "The Federal Government encourages formation of local and regional railroads to preserve service where it is cost-effective."

With the proposed termination of the local rail service assistance program, which is funded at approximately $7 million for FY 1990, how will the Federal Government encourage local and regional rail service, which is so important to rural communities?

ANSWER: The Federal Railroad Administration will encourage and support continued local and regional rail service as an element of our nation's transportation system through a program of technical assistance. A technical assistance effort will help these newly created railroads improve the efficiency of their operations and minimize the need for additional Federal investment for rehabilitation. This effort is necessary because regional and shortline railroads have limited resources for such purposes and, as a result, the private sector has not viewed technical assistance for these railroads as a business opportunity.

SENATOR DOMENICI: Through what other programs or mechanisms will the Federal Government ensure that this mode of transportation is given its rightful place in the national transportation system?

ANSWER: The proposed technical assistance program may include the following areas: (1) training, (2) operations and work place safety assistance, (3) track maintenance and operational planning tools, (4) advanced technology applications, (5) micro-computer software for railroad maintenance and operations, and (6) resource sharing among carriers.

We also will continue to serve as a clearinghouse of information regarding regional and shortline railroads and state financial and technical assistance programs.

Consistent with the National Transportation Policy Strategy, FRA will also support legislation to repeal the Federal Employers' Liability Act and bring Federal treatment of railroads into conformity with treatment of other modes.

SENATOR DOMENICI: What is the Administration's rationale for terminating the local rail service assistance program?

ANSWER: No additional funding has been requested for the local rail service assistance program because the program has served its original purpose of mitigating the impacts of major rail carrier abandonments.

SENATOR DOMENICI: How does this budget proposal support the stated Federal transportation policy outlined in the National Transportation Strategy on page 51 under the discussion of improving intermodal and rural connections?

ANSWER: This budget proposal supports the National Transportation Policy Strategy by including staffing costs and $75,000 in contractual seed money to initiate a program of technical assistance which will help preserve and enhance efficient transportation service by regional and shortline railroads in rural areas. As the official liasion with state rail planners, FRA will also work toward greater flexibility in transportation funding at all levels of government.

FEDERAL RAILROAD ADMINISTRATION - MAGLEV TRAIN

SENATOR DOMENICI: Mr. Carmichael, in your testimony you indicate that the FRA budget request for railroad research and development includes $6.15 million to carry out "safety, economic, and other technical assessments" of high-speed maglev systems. You further state that FRA will seek to establish a strategy for facilitating private sector development of these advanced maglev systems. Would you please describe the various factors you will be considering as you assess the safety, economic, and technical features of the maglev technology?

ANSWER: First and foremost, we will be looking at safety. We will be approaching this project with a great degree of caution inasmuch as we do not really have any operational experience to fall back on as in the case of the railroads. As a result, we are following almost hand-in-hand the development of the Maglev Demonstration Project at Orlando, Florida, which proposes to use the German Transrapid system. We are working very closely with the German engineers as they develop their safety standards. We will participate in the Transrapid certification testing and follow step-by-step the design and construction of the Florida system. When test operations begin there, we expect to be very much involved. From a maglev development context, we will be looking at market potential for maglev and defining its most appropriate role in an integrated, intermodal national transportation infrastructure. We will look at its potential for economic viability once deployed and operating. With respect to maglev technology, we intend to examine very closely the long-term implications of the two maglev suspension approaches, those areas of technology considered likely to show promise for significant improvement over present maglev technology but that present a high technical risk that may unnecessarily thwart its development. At the same time, we will examine the maglev system concepts that may be proposed by the U.S. private sector teams.

SENATOR DOMENICI: How much of the budget request will be dedicated to these activities?

ANSWER: We have initially allocated $1.1 million to market, economic, and financial issues including a prospectus development; $1.05 million to safety; and $4.0 million in the technology assessment area.

SENATOR DOMENICI: What factors have convinced you that American industry might be poised to develop advanced maglev systems?

ANSWER: The U.S. is considered the world leader in superconducting materials, magnets, electronics, composite materials, and construction technologies. Development of a domestic maglev industry could serve to further this expertise through technology spin-offs and redirect the American defense-oriented industrial base to a major new peacetime mission. Our survey of industry firms, presently underway, indicates a high level of confidence in the U.S. capability to catch up and improve on the existing maglev technologies, provided a strong Government leadership role is present.

SENATOR DOMENICI: With research currently underway in Japan, and a German system already in the prototype testing phase, what makes you think American industry isn't too late entering into this game?

ANSWER: Our preliminary research suggests that there are opportunities for improving on the existing technology and that U.S. industry has the capability to exploit those opportunities and develop an advanced system. We were in the business of maglev research in the late 1960s and the first half of the 1970s. We have recruited back from the private sector the research manager of that work to serve as our program manager in this resumed effort. There is a large body of inspired supporting scientists and engineers at the Transportation Systems Center and, through interagency agreements, we have access to the national laboratories of the Army Corps of Engineers and the Department of Energy. This base, coupled with the industrial expertise mentioned earlier, through a strong partnership arrangement, gives us a great deal of confidence.

SENATOR DOMENICI: Do you have any preliminary estimates as to how much it might cost to develop a system to the testing stage? Do you know how much Germany has spent on its system that is currently in prototype?

ANSWER: Our present maglev program request is designed to answer that question but I can say that it will be an expensive undertaking. It is our understanding that the German government has invested over one billion dollars.

SENATOR DOMENICI: In developing this strategy I assume you will be considering methods of financing development costs. What financing mechanisms (direct Federal appropriations, loan guarantees, private funding) do you expect to explore? Do you have any preliminary estimate as to how much funding you would expect the Federal Government to put into such an initiative?

ANSWER: We will explore a variety of ways to facilitate the financing of private maglev systems. It is premature, at this time, to speculate on Federal funding for maglev projects.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

FEDERAL RAILROAD ADMINISTRATION AND AMTRAK

SENATOR GRASSLEY: Railroads are targets of leveraged buyouts which have the potential to seriously drain cash flow away from needed capital investments and to jeopardize the stability of rail service. Most major Class I railroads in the United States are listed as possible leveraged buyout targets. A case in point is the recent leveraged buyout of the CNW Corporation by the Blackstone Group. The CNW is Iowa's largest railroad, carrying nearly half of all products shipped by rail. It is clearly in the public interest that this railroad remain healthy.

What is the Department of Transportation's position concerning more direct review and regulation of leveraged buyout proposals which affect transportation facilities?

ANSWER: The Department of Transportation supports private sector rail acquisitions and restructurings that are both financially sound and promote the public interest. The Interstate Commerce Act recognizes freight railroads as an integral and critical component of the U.S. transportation network. Without doubt, the rejuvenation of the industry since 1980 is attributable to Congress' decision to lift outmoded and counterproductive government oversight from railroads, creating a favorable environment for significant capital investment in plant and equipment for the first time in decades.

Current law directs the Interstate Commerce Commission (Commission) to evaluate leveraged acquisitions between carriers for their competitive consequences. The law also provides the Commission with authority to review the issuance of securities by a carrier that might leverage transactions with a non-carrier. We believe that the Commission already possesses sufficient statutory authority to review private sector rail acquisitions and restructurings to ensure that the public interest and convenience is fully protected.

SENATOR GRASSLEY: President Bush recently signed into law the Local Rail Service Reauthorizing Act. This statute reauthorizes the Local Rail Service Assistance Program through Fiscal 1991, but only $7 million in funding was provided. The same Act authorized a new program called the Local Rail Freight Assistance Program for Fiscal 1991.

The Local Rail Service Assistance Program has been important in preserving rail service to Iowa shippers. Since 1978, a total of $25 million in federal funding has been used to leverage $70 million in total project work in Iowa. My question is... What do you see for the future of the Local Rail Service Assistance Program?

ANSWER: While the Local Rail Service Assistance Program has been very effective in helping to preserve rail service, we cannot afford to continue this program in light of the budget deficit. A 1989 survey conducted by the National Conference of State Railway Officials found that 21 states have established their own independently funded rail service assistance programs. In addition, the formation of hundreds of shortlines in the past few years demonstrates the availability of private funding for the acquisition and rehabilitation of light density rail lines. With other sources of financing available, we cannot justify continuation of the Federal Local Rail Service Assistance Program.

SUBCOMMITTEE RECESS

Senator **LAUTENBERG**. The subcommittee will stand in recess until Thursday, April 26, when we are going to hear testimony from the General Accounting Office.

[Whereupon, at 1:22 p.m., Thursday, April 19, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 26.]

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